

Personnel Policies and Procedures



Mission Statement:

The Arkansas Department of Education strives to ensure that all children in the state have access to a quality education by providing educators, administrators and staff with leadership, resources and training.



JOHNNY KEY
Commissioner of Education



**EMPLOYEE HANDBOOK PERSONNEL
POLICIES AND PROCEDURES**

I, _____, acknowledge I have been provided and received directions on how to access the Arkansas Department of Education (ADE) Employee Handbook Personnel Policies and Procedures (henceforth called Handbook) on the ADE Intranet site at <https://adeemployees.arkansas.gov/Default.aspx?ReturnUrl=%2fPages%2fams%2f> and that I am responsible for knowing the contents of the Handbook.

The Handbook is an informational guide to employment benefits, policies, guidelines, regulations and salaries. It may not explicitly describe or define all eligibility requirements for benefits. Employees are encouraged to ask the Human Resources Office concerning any questions they might have regarding information in this Handbook.

I further understand that the Handbook is a guide, not a contract and does not create a contract with the Department for any purpose and that the provisions of this Handbook may be modified or eliminated at any time.

Signed: _____
(Print) (Signature)

Division/Section/Unit: _____

Date Received: _____



April 30, 2015

Dear Employee:

On behalf of myself and our colleagues, I welcome you to the Arkansas Department of Education (hereafter referred to as ADE or Department) and wish you every success here. We have found that we are most effective in serving you when we each have a clear understanding of expectations and obligations. While this Handbook provides important information relative to all aspects of your employment at ADE, it cannot be used as the basis for all decisions. To this end, I encourage you to consult your supervisors and the members of the Human Resources staff. The Human Resources Office is structured to provide a full range of personnel services, including benefits, administration, recruiting and placement, classification and compensation and employee relations.

ADE is a great place to work because of people like you. Each employee contributes directly to the growth and success of the Department and we hope you will take pride in being a member of our team. Along with this "Welcome Letter" we have provided you with a Handbook to assist you with questions, concerns, policies and procedures needed to have a successful employment experience. We invite your comments on the contents of this Handbook, as well as any other observations which may be helpful in the delivery of services to ADE community.

It is the responsibility of each supervisor to administer these policies in an impartial and consistent manner and it is the responsibility of the Human Resources Office to monitor the administration of these policies throughout ADE.

Any and all provisions of any previous Handbook from ADE regarding employees' rights of employment by ADE are hereby rescinded and superseded. We hope that your experience here will be challenging, enjoyable and rewarding. Again, welcome!

Sincerely,

Johnny Key
Commissioner of Education

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INTRODUCTION TO THE EMPLOYEE HANDBOOK

The Handbook was developed to provide a summary of useful topics to assist new staff with their understanding of ADE's mission, culture, expectations and benefits. This Handbook will also be helpful to our current staff since it provides a comprehensive source for updated information related to ADE employment.

This Handbook will help you to become familiar with ADE policies and procedures, thus becoming more productive. Services will be provided in compliance with State and Federal guidelines. Should you have any related questions or need personnel assistance, please contact ADE's Human Resources Office staff at 501.682.2744.

The policies presented here originate from the Department of Finance and Administration (DFA), Office of Personnel Management (OPM), but apply to all state employees. OPM has the overall responsibility of administering the state's personnel system and establishing necessary policies, procedures and regulations to ensure system uniformity in accordance with state and federal law. OPM offers diversified personnel service programs to all state agencies and institutions of higher education to assist in the achievement of human resource management goals and objectives.

Much of the material in the Handbook is summarized, excerpted, or paraphrased, so the Handbook is a guide rather than a complete source of information on employment-related subjects. Whenever possible, the source of the information is cited and additional details can be found in the DFA – OPM Policy and Procedures, federal and state laws and other documents referred to in the Handbook. If you need help in locating any of these source documents, please ask the staff in the Human Resources Office. The Handbook is accessible in electronic format through ADE Intranet Site at <https://adeemployees.arkansas.gov/Pages/> and may be downloaded, stored, or printed as needed.

ADE staff will be responsible for reading the entire Handbook and all subsequent updates.

If any portions of this Handbook are found to be in contradiction with state or federal laws, the laws and regulations will supersede any information/provisions of the Handbook.

The staff in the Human Resources Office has the authority to interpret Human Resources policies and reserves the right to change, amend or terminate any of its policies at any time for any reason, with or without notice. Under no circumstances are the statements contained in these documents to be considered a contract of employment, an obligation, or guarantee on the part of the Department.

ADE in its sole discretion may at any time and without notice unilaterally edify, interpret, suspend, add, change, deviate from, revoke or delete, in whole or in part, any of the provisions in this Handbook or policies, plans, procedures, programs, practices or benefits, except as expressly prohibited by statutes or personnel rules.

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SECTION I – EMPLOYMENT POLICIES AND STATEMENTS

1.1 Equal Employment Opportunity Policy Statement

ADE shall follow the spirit and intent of all federal, state and local employment law and is committed to equal employment opportunity. ADE is committed to providing equal opportunity for all employees and applicants without regard to race, creed, color, religion, national origin, civil union status, gender identity or expression, age, marital or political status, disability or handicap, sex or sexual orientation or any other category protected by federal, state or local law or regulation. ADE's decisions regarding recruitment, hiring, promotions, demotions, job assignments, transfers, working conditions, scheduling, benefits, wage and salary administration, disciplinary action, terminations and social, educational and recreational programs, or any other term or condition of employment are based solely on the qualifications and performance of the employee or prospective employee. If any employee or prospective employee believes they have been treated unfairly, they have the right to address their concern with their immediate Supervisor, their Assistant Commissioner, Deputy Commissioner of Education, Assistant Commissioner of Human Resources, or the Human Resources Manager.

1.2 At-Will-Employer

ADE is an "at-will" employer. Nothing in this document or policies and procedures establishes, constitutes, or implies an employment contract, the guarantee of employment or benefits, or employment for any specific duration. Nothing contained in ADE policies, Handbook, applications, or other documents, or the granting of any interview or the placement in a probationary status or any other administrative act, creates a contract between an individual and ADE for either employment or the provision of benefits. ADE does not guarantee continued employment for any specific period of time and employment can be terminated with or without cause and with or without notice, at any time, at the option of either ADE or the employee. Individuals hired will be required to provide proof of eligibility to work in the United States pursuant to the Immigration Reform and Control Act of 1986.

1.3 Non-Discrimination Policy

ADE prohibits discrimination on the basis of race, color, religion, creed, sex, age, marital status, national origin, mental or physical disability, political belief or affiliation, veteran status, sexual orientation, genetic information and any other class of individuals protected from discrimination under state or federal law in any aspect of the access to employment and application for employment. Furthermore, ADE policy includes prohibitions of harassment of employees, i.e., racial harassment, sexual harassment and retaliation for filing complaints of discrimination.

ADE is committed to compliance with Title VII of the Civil Rights Act of 1964, Title VI of the Equal Pay Act of 1963, Executive Order 11246 (1965), the Americans with Disabilities Act of 1990, the Vietnam-era Veterans Readjustment Act of 1974, the Age Discrimination Act of 1975, the Age Discrimination in Employment Act of 1967, the Family and Medical Leave Act of 1993.

Violations of these policies will result in disciplinary action up to and including discharge. Employees who feel they have been subject to discrimination, harassment or disrespect as prohibited above, should file a complaint pursuant to ADE's Uniform Grievance Procedure.

1.4 Harassment

It is the policy of ADE to provide an employment environment free from any form of sexual or discriminatory harassment including harassment by speech or other expression, by action, or by combination thereof. This policy applies to all employees.

Harassment is defined as unwelcome verbal, physical or visual conduct, relating to a protected classification, which has the unreasonable purpose or effect of severely and pervasively interfering with an individual's or a group of individuals' ability to participate in all and any aspect of professional life.

ADE expressly prohibits any form of harassment that is based on any protected classification including sex, race, color, age, religion, national or ethnic origin, sexual orientation, gender identity or expression, pregnancy, marital status, medical condition, veteran status, or disability in any decision regarding employment and subsequent treatment of employees in accordance with the letter and spirit of federal, state and local non-discrimination and equal opportunity laws. Any harassment may be grounds for discipline up to and including termination.

1.5 Americans with Disabilities Act (ADA)

The ADA Act (42 U.S.C. § 12.101 et.seq.) of 1990 is a civil rights act prohibiting discrimination against individuals with disabilities in the offer or conditions of employment and in the participation or furnishing of services. It does not guarantee equal results, establish quotas, or require preferences favoring individuals with disabilities over those without disabilities. The ADA Amendments Act (ADAAA), effective January 1, 2009, was adopted to restore the original intent of the ADA by providing a clear and comprehensive national mandate for the elimination of discrimination and help tap an under-utilized employee population.

The ADA and ADA Amendments provide protection for the person with a disability from discrimination in any employment action and requires an employer to make reasonable accommodations to aid the individual to perform the essential duties of the job.

To be considered disabled under the ADA, a person must have a physical or mental impairment that substantially limits one or more major life activities; have a record of such impairment; or be regarded as having such impairment. Additionally, to be covered by the ADA, a person with a disability must be otherwise qualified for the job, program or activity to which access is sought.

Under ADA, employment decisions must be based on an individual's ability to perform the essential functions of a position with or without reasonable accommodation. ADE is not required to make accommodations that would eliminate the essential functions of the job or impose an undue hardship on the operation of ADE. Under the ADA, for the purposes of providing reasonable accommodation, the State of Arkansas as a whole is considered the employer and not individual agencies.

If the employee has a disability and needs an accommodation to perform his/her job duties or to receive any regular benefit or condition of employment, the employee should make the request to his/her supervisor verbally, in a written note or memo, or by using a special form. Any other person may assist in

making this request.

The law defines essential job functions as those fundamental tasks of a job, reasonably defined by the employer; and reasonable accommodations as those changes in facilities or policies that enable an otherwise qualified person to perform the essential job functions. An accommodation is considered reasonable and is required if it effectively allows the person to perform the essential job tasks, while not placing an undue hardship on the employer.

The ADA and the ADA Amendment Act provides protection for the employer from making accommodations that are unreasonable or detrimental, operationally or fiscally. ADE is not required to create a position as an accommodation or to shift duties from the person with a disability to another staff member resulting in an increased workload for that employee. For additional information about the program, please contact the Human Resources Office.

1.6 Disclosure of Health Information

Employee health records maintained by ADE will only be disclosed outside ADE as required by law.

1.7 Conflict of Interest

Employees have an obligation to conduct business within guidelines that prohibit actual or potential conflicts of interest and shall adhere to the applicable state laws governing ethical conduct and conflict of interest.

1.8 Disclosure of Information

All public records maintained by ADE are subject to release under the Arkansas Freedom of Information Act (FOIA). For additional information regarding FOIA, please contact ADE Legal Services.

1.9 Minority Recruitment

ADE has developed and implemented a plan to identify job positions/grades within ADE in which minorities are underrepresented and to recruit and employ qualified minority applicants for those positions so as to create a balanced, desegregated staff at all levels. Members of ADE's Leadership Team are familiar with this policy, the philosophy behind it and their responsibility to apply these principles in good faith for meaningful progress in the utilization of minorities. The Human Resources Office is designated to coordinate efforts to comply with laws and regulations relating to nondiscrimination.

1.10 Hiring Relatives Reference: OPM Policy Number 30.15

Arkansas Law prohibits the hiring of relatives by public officials and prohibits ADE employee's from supervising a relative. Relative is defined as:

husband, wife, mother, father, stepmother, stepfather, mother-in-law, father-in law, brother, sister,

stepbrother, stepsister, half-brother, half-sister, brother-in-law, sister-in-law, daughter, son, stepdaughter, stepson, daughter-in-law, son-in-law, uncle, aunt, first cousin, nephew, or niece.

Within each state agency, no relatives of employees shall be placed within the same line of supervision whereby one relative is in a supervisory position over the other. A temporary change in supervision resulting in the supervision of a relative will not be considered a violation of ACA § 25-16-1001, provided the supervision does not exceed 30 days. No hiring, firing, pay adjustments or other personnel actions may occur during this temporary period of supervision.

If employees of the same state agency plan to marry, they must complete and sign OPM Form 050, Marriage Disclosure of State Employees, listing both employees' names, job titles and division in which employed and submit the form to the employees' human resources department for review and approval. Failure to complete this form may subject employees to termination for non-compliance. If the marriage will result in a violation of ACA § 25-16-1002, the public official of the state agency or his designee shall provide written notice of each of the alternatives to resolve the violation as listed below:

- a. Transferring one of the employees to another position within the agency.
- b. Transferring one of the employees to another agency.
- c. The resignation of one of the employees.

The employees shall be given the opportunity to select among the available alternatives.

If any employee of an agency suspects a violation of ACA § 25-16-1001 has occurred, they may complete OPM Form 051, Violation of Hiring Practices/Supervision of a Relative and submit the form to the Office of Personnel Management. OPM will determine if a violation has occurred and report such violations to the Attorney General's Office for resolution.

Penalties: If anyone approves a position and authorizes compensation to an employee in violation of this law, the person will be charged with a Class A misdemeanor. A public official who knowingly violates this law shall be subject to a civil penalty of one thousand dollars (\$1,000).

1.11 Immigration Reform Control Act

ADE is committed to meeting its obligations under United States immigration law. The Immigration Reform and Control Act of 1986 mandates all employers to maintain records documenting the identity and eligibility to work of all regular and temporary employees hired after November 6, 1986. Form I-9 is used for verifying the identity and employment authorization of individuals hired for employment in the United States.

1.12 Veterans Preference Reference: OPM Policy 30.20

In compliance with Ark. Code Ann. §§ 21-3-302 and 303 of the State Veteran's Preference Law, ADE gives preference in appointment and employment for certain qualified veterans, their spouses, or the surviving spouse of a deceased qualified veteran in hiring and employment.

Specific Provisions

For purposes of this section, "veteran" means:

- (1) A person honorably discharged from a tour of active duty, other than active duty for training only with the armed forces of the United States; or
- (2) Any person who has served honorably in the National Guard or reserve forces of the United States for a period of at least six (6) years, whether the person has retired or been discharged or not.

The veteran's status shall be considered on questions of hiring, promotion and retention of employees. A veteran who voluntarily submits official proof of his or her status as a veteran, disabled veteran, or a surviving spouse of a deceased veteran who remains unmarried at the time the preference is being sought shall be entitled to employment preference in a position over other applicants after meeting substantially equal qualifications. The person requesting the preference must be a citizen and resident of the state.

If the examination, evaluation, or similar instrument is given to establish a list of qualified candidates to be interviewed for a position at ADE subject to the Uniform Classification and Compensation Act and an applicant entitled to a veteran's preference attains a passing grade, the applicant shall have five (5) points added to his or her final earned rating if the examination, evaluation, or similar instrument is subject to numerical scoring.

If the examination, evaluation, or similar instrument is not subject to numerical scoring, the selection authority shall demonstrate how veteran's preference was applied in developing a list of qualified candidates to be interviewed and selecting the successful candidate.

Disabled veterans, veterans over the age of fifty-five (55) and who are disabled and entitled to a pension or compensation, or the spouse of a disabled veteran shall have ten (10) points added to his/her final rating score.

If a veteran is not selected for a position and a numerical score was used, at the veteran's request the selection authority shall provide the veteran with his or her base score, adjusted score and the successful candidate's score.

If a scoring method other than numerical use used, at the veteran's request, the selection authority shall provide all documentation to the veteran to demonstrate how the veteran's preference was used to develop the interview list and how the successful candidate was selected.

The selection authority is not required to provide the veteran with testing materials or any other information concerning the successful candidate or other applicants that is not authorized for release under the Freedom of Information Act.

Procedure

The names of candidates who have qualified in an examination, evaluation or similar instrument given for the purpose of establishing an interview or employment list shall be entered on an appropriate register or list of eligible candidates in the following order:

- Names of ten-point preference eligible candidates shall be placed at the head of the register or applicant list of persons certified as having equal eligibility points;

- Names of five-point-preference eligible candidates shall be placed at the head of the register or applicant list of persons certified as having equal eligibility points; and
- Names of all other eligible candidates who do not have preference as provided in this section shall be placed on the register or applicant list in accordance with their ranking of eligibility points.

The persons entitled to preference shall not be disqualified from holding any position on account of age or by reason of any physical disability, provided that the age or disability does not render the person incapable to perform properly the duties of the position for which he or she applied.

Failure to Hire a Veteran

If requested by the veteran applicant, a hiring official or selection authority for ADE shall submit in writing to the veteran the reason the veteran was not (1) included on a list of qualified candidates to be interviewed; and (2) selected for the position.

The written reason shall become a part of the employment application records of ADE and be retained for the same period of time as all other employment applications as established by law.

1.13 Compliance with Military Selective Service Act: OPM Policy 30.03

Purpose

The Federal Selective Service System is a means by which the United States maintains information on those potentially subject to military conscription. Most male U.S. citizens between the ages of 18 and 25 are required by law to have registered with the Selective Service System within 30 days of their 18th birthday.

Specific Provisions

A male applicant between the ages of eighteen (18) and twenty-five (25) seeking employment with the State of Arkansas shall be registered with the Selective Service System.

An applicant is not required to register with the Selective Service System if the person is: under eighteen (18) years of age; in the United States armed forces on active duty, other than in a reserve or national guard unit; An alien lawfully admitted to the United States for so long as he or she continues to maintain a lawful nonimmigrant status in the United States; A permanent resident of the trust territory of the Pacific Islands or the Northern Mariana Islands; or Excused from registration for other reason provided by federal law and that reason is included in the certificate.

No person who is required to register with the Selective Service System shall be eligible for employment by any agency or institution of higher education of the State of Arkansas or for admission to any public institution of higher education unless the person has signed a statement of selective service status.

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Employee

A person employed in a legislatively authorized position either on a full or part-time basis, including exempt and non-exempt, regular full-time, regular part-time, extra-help and temporary persons who are subjected to the control and direction of ADE in the performance of their duties.

Exempt and Non-Exempt

OPM of the DFA designates state job titles as exempt or non-exempt under the Federal Fair Labor Standard Act (FLSA). Certain positions may, because of the nature of their responsibilities, be exceptions to OPM's general designations. The FLSA requires the payment of overtime for non-exempt work in excess of forty hours in a work week, or the granting of compensatory time. The overtime earned is banked in lieu of cash overtime payment. For additional information concerning the classification of employment positions or eligibility for overtime compensation, contact the Human Resources Office.

Regular Full-Time

Classified and unclassified employees are employees who have completed the six-month probationary period and who are regularly scheduled to work forty (40) hours per week. Generally, they are eligible for ADE benefit package, subject to the terms, conditions and limitations of each benefit program.

Regular Part-Time

All classified employees who have completed the six-month probationary period and who are designated to work less than full-time (40 hours per week). Regular part-time employees are eligible for some benefits sponsored by ADE, subject to the terms, conditions and limitations of each benefit program.

Temporary

Workers obtained through temporary employment services for a brief and specific period of time (i.e. Staffmark, Kelly Services, etc.) as contract labor may be utilized for a period no longer than six (6) consecutive weeks or 240 hours per calendar quarter. In no event may temporary personnel be authorized to work more than forty (40) hours in a week. Temporary employees are not entitled to any State benefits. **References: ADE's Financial Policy and Procedures Manual.**

Extra Help

Extra help employees may not work more than one thousand (1,000) hours per fiscal year unless otherwise specified in ADE's appropriation act. The only benefit extra help receives is paid time off for holidays when the work schedule qualifies them. OPM Policy Reference: 10.01 and ADE's Financial Policy and Procedures Manual.

Job Share

One budgeted position may be occupied by two or more employees to allow job sharing, a form of employment in which the hours of work of two or more persons are arranged in such a way as to cover a single extra-help or regular full-time salary position in agencies/institutions higher education. The number of hours worked between the two or more part-time employees cannot exceed the number of hours a full-time employee would work in the same position.

All employees in a job share position must be part-time. The total number of hours worked for all employees for a given biweekly pay period may not exceed eighty (80) hours. Each employee in a job share position must use the position in the same way. For example, if the position is classified as a secretary, all employees must perform secretarial duties. Requests must be reviewed and approved by OPM.

Initial Probationary Period

The duration of the probationary period for new classified employees and classified employees who are transferring from another State agency shall be six (6) months, however, the probationary period can be extended up to one year. The period shall be an essential part of the examination process and shall be utilized for the most effective adjustment of a new employee. During this period, both the employee and the supervisor have the right to terminate employment without advance notice. In addition, if a current employee is promoted to a new position within ADE, a six (6) month probationary period is imposed.

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SECTION III - EMPLOYMENT POLICIES AND PROCEDURES

3.1 Position Classification

ADE positions titles are authorized by the Arkansas General Assembly in ADE's biennial appropriation acts and are designated as classified or unclassified. An employee official job title is based upon a written classification or job specification sometimes called a "job spec." Classification specifications include: job title, characteristics of the job classification and examples of duties and minimum qualifications of required training and/or experience.

Basically, jobs that are similar in terms of general duties, responsibilities and qualifications are grouped together in the same classification. The job spec is not intended to be a comprehensive list of each responsibility associated with a position. Rather, it should reflect the primary functions of a job.

- Positions assigned to Career Service Pay Plan are Grades C101 to C130. These grades have entry, base, mid-point, maximum and career pay levels.
- The Career Pay Level is the salary level established on the Career Service Pay Plan reserved for employees who have at least fifteen (15) years of cumulative state service and a satisfactory or above performance evaluation for the preceding rating period.
- Positions assigned to the Professional and Executive Pay Plan consists of Grades N901 to N922. These grades have base, mid-point and maximum pay levels.
- Unclassified employees' class codes begin with "U". Each unclassified title has a maximum salary for each year of the biennium, called a line-item maximum, which is specified in ADE's Appropriations Act. The actual pay for each unclassified position is determined by the Agency and division budget and by the employee's qualifications.

Reclassification Reference: OPM Policy 10.06

Reclassification is a change in the assignment of a position from one classification title to another classification title of either a higher, lower, or the same grade. A reclassification occurs when material and permanent changes in the duties and responsibilities of the position being recommended for reclassification have occurred.

- Position classification changes must be approved by OPM. There will be no increase or decrease in pay unless the employee is moved to a position that has a higher entry rate of pay than the employee is currently being paid or the employee's current level of pay is above the grade's maximum rate of pay for the reclassified position.
- Positions having a line item maximum salary may not be reclassified from line-item status and are exempted from the reclassification process.
- Positions assigned a classification title and salary grade may not be reclassified to a classification title having a maximum annual line-item salary payment schedule.
- Positions may only be cross graded within their pay plan, career service pay plan to career

service pay plan and executive professional pay plan to executive professional pay plan.

3.2 Employment

ADE recruits, employs and provides compensation to employees as authorized by guidelines furnished by DFA – OPM on the basis of merit, qualifications and competence in a manner that is fair to all applicants and employees. OPM is responsible for managing the Uniform Classification and Compensation System. This includes classifying positions, evaluating jobs, developing classification standards and specifications, assigning pay grades, collecting salary data, developing and administering pay plan policies and procedures, developing and administering performance evaluation procedures and providing professional assistance and guidance related to personnel management.

As an employee, you have been hired to perform specific duties that are associated with a specific job classification. All job classifications, qualifications and the pay range associated with a position are established by DFA and OPM. Employees work five 8-hour days each week. Full-time employees normally work forty (40) hours per week; each biweekly pay period consists of ten (10) workdays and/or eighty (80) hours.

3.3 Hiring Policies and Procedures

ADE employment opportunities are advertised "Open Competitive Opportunity." Within the context and framework of the published mission of ADE; ADE seeks to employ the best-qualified personnel in all areas of our operations. Initial employment, employee compensation, training/development and subsequent promotion opportunities are extended to all persons regardless of race, color, national and ethnic origin, sex, age, or disability. ADE diligently seeks qualified persons to fill job openings and thus expand the multicultural presence of our agency.

ADE engages in an open recruitment process for filling new positions and locating replacement personnel. Our recruitment and hiring practices will advance our goal of building a work force of persons committed to the mission of the Department.

According to Executive Order 99-04 and OPM Policy number 30.01, positions on the Career Service Pay Plan with a FLSA status of exempt will be advertised for ten (10) working days and with the status of non-exempt will be advertised for five (5) working days. If necessary, advertising may continue for positions or be readvertised until a suitable applicant is found.

It is at the discretion of the Commissioner of Education to advertise positions on the Professional and Executive Pay Plan.

To facilitate the efficient recruitment of candidates, the following guidelines should be followed:

1. A "Hiring Freeze Request Form" and a Job Requisition will be completed and the necessary authorizations will be secured prior to the search.
2. A written notice (posting) of the position will be posted on the following websites:
 - ADE website <http://www.arkansased.gov>
 - Positions requiring a valid professional educator's license will be advertised on

this website: Arkansas Association of Educational Administrators website
<https://www.schoolspring.com/employer/index.cfm>

- Applications for employment with ADE are made via <https://www.arstatejobs.com>
Applicants are encouraged to utilize this website when applying for a position. Paper applications may be obtained by contacting the Human Resources Office, 501.682.2744.
3. Appropriate outside advertising, if necessary, will be coordinated by the Human Resources Office.
 4. The hiring division will conduct interviews and special effort should be made to consider minority candidates.
 5. Prior to hiring, reference checks will be conducted by the Human Resources Office on final candidates whom are being considered for a position with ADE.
 6. The offer of employment will be made by the Human Resources Office and should be followed up by a written confirmation. The offer is not official until it is given in writing.
 7. Candidates not selected will be promptly contacted by the Human Resources Office.
 8. Selection of a candidate will not occur until the vacancy announcement closes.
 9. Hiring supervisors will establish performance standards for new employees within the first thirty (30) to sixty (60) days of employment. Early detection of performance problems is very important.

Hiring occurs when the Human Resources Office initiates a job offer and the candidate accepts. The Human Resources Office creates the employee's personnel file.

Under no circumstances shall a resume replace the approved state of Arkansas Employment Application for employment. Resumes may be attached to the completed employment application for additional information.

Minimum Qualifications – The applications of internal and external candidates meeting the state minimum qualifications and/or the departmental special requirements for the Career Service positions (Pay Grade C101-C130) will be forwarded to the division where the vacancy exists.

To be considered for a position, the state requires that the applicant meet the Minimum Qualifications that Department of Finance and Administration/Office of Personnel Management has established. The ADE Human Resources Office will certify that these requirements are met (on the basis of the information provided on the current application) and special requirements be met for the applicant to be minimally qualified. Examples of special requirements are licenses, certifications, and official college transcripts. The Minimum Qualifications and Special Requirements are published for advertised positions.

Meeting the Minimum Qualifications is determined by the education, experience, and other relevant information, e.g. licensure, certification, etc. listed on the application. Thus, it is very important that an applicant provide accurate information on the application form.

A notice will be sent informing applicant does or does not meet the Minimum Qualifications will be sent electronically from the ADE Human Resources Office to the email address listed on the application. If an

email address is not provided on the application, then a notice will be forwarded to the address provided on the application. To request an appeal of a determination that an applicant does not meet Minimum Qualifications, a written notice must be forwarded to the ADE Human Resources Office, with a determination of reconsideration to be made by the State Qualifications Review Committee. A hiring decision will be delayed pending an appeal to State Qualifications Review Committee.

Positions requiring certification or licensure requirements cannot substitute other job related education and/or experience for all or part of the basic requirements.

Disqualifications - Applicants will be rejected if the applicant is unqualified for the performance of duties of the position to which he or she seeks employment, has made any misstatement of any material fact, or has practiced any deception or fraud in the application or the application process.

Screening Applications - Assistant Commissioners or unit leaders shall screen, select, schedule and conduct interviews of candidates whose applications have been forwarded from the Human Resources Office. After conducting interviews, the immediate supervisor will recommend the top three (3) candidates to the appropriate Assistant Commissioner.

The appropriate Assistant Commissioner will forward the Personnel Recommendation form and all supporting documents to the Human Resources Office.

Notification to candidates for employment will be handled by the Human Resources Office. The Assistant Commissioner or the immediate supervisor will not contact the selected candidate for employment.

As the gatekeeper for ADE hiring, the Human Resources Office will review and confirm acceptable references prior to offering the position and will contact and provide the selected candidate with necessary details. Grade placements and salaries are quoted only by the Human Resources Office. The Human Resources Office will keep the appropriate supervisors informed during the process.

3.4 Pre-Employment Reference Checks

ADE conducts pre-employment references on applicants who are offered a position with ADE. The Human Resources Office, when extending an offer of employment to an individual on behalf of ADE, shall make the following statement: "This offer of employment is contingent upon successful completion of an "Employment Reference Check."

The applicant who received this conditional offer of employment must sign a release form for an employment reference check. The individual should not begin employment until successful employment reference check results have been received.

If the applicant has no work history, three (3) personal references will be obtained. The results of reference checks shall be recorded on ADE's Employment Reference Check Form. ADE's Employment Reference Check Form will be kept separate from the employee's permanent personnel file.

This search will verify through the current and former employer's Human Resources Offices dates of employment, position, duties, eligibility for rehire salary, attendance and performance. The former and current employer's policy will determine types of information released.

If a portion of the hiring decision is based on possession of a degree, license or certification and a requirement for the position (i.e., accountant) the Human Resources Office will obtain a copy of the degree, license, or certification from the applicant.

If a candidate for employment is an internal candidate or/a previous ADE employee, the official personnel file, including documented performance evaluations, documented disciplinary action and attendance records if requested shall be made available to the hiring supervisor and will form part of the hiring decision for the new position unless that personnel file was destroyed in accordance with the Arkansas General Records Retention Schedule. Satisfactory references and review of the personnel file, if applicable, are recommended before an offer of employment is made to any internal candidate.

Note: Candidates interviewed shall complete the Disclosure Requirements: Employment of Family Members Form (F3-F4) and Employee Disclosure Requirements Restrictions Notice (F5-F6, F7 and F8) pursuant to Executive Order 98-04 and Ark. Code Ann. § 19-11 Subchapter 7, 21-1 Subchapter 4 and 25-16 Subchapter 10. See Section 3.17 Employee Disclosure Section.

3.5 Selection of Successful Candidate

The Assistant Commissioner's, or his/her designee's, primary objective shall be the selection of the best-qualified applicant for each position, based on job-related factors, including relevant work experience, performance history, applicable education and training and the depth of required knowledge, skills and abilities (KSAs) as described in the Minimum Qualifications and ADE Special Requirements.

Employees are selected on the basis of work history, professional and other skills, knowledge, judgment, education, experience, character, motivation and other work related recognized competence and experience.

The successful candidate will be contacted by the Human Resources Office. The initial notification of selection may be oral, but the official offer will be in writing and will include the specific terms of employment. Immediately following approval of the recommendation, the Human Resources Office shall take actions necessary to staff the selected candidate.

3.6 Guidelines for Releasing Employment Information on Current and Former Employees

Purpose

Prospective employers may request reference checks on prospective employees with written consent from the prospective employee. Arkansas law establishes the guidelines for what an employer may release on a former employee.

Providing References to Prospective Employers

The employee's signed and dated consent must be given before any information can be released on the employee's employment history. The consent must be on a separate form from the employment application form, or, if included in the employment application form, must be in bold letters and in larger typeface than the largest typeface in the text of the employment application form.

The consent form must state, at a minimum, language similar to the following:

"I, (applicant), hereby give consent to any and all prior employers of mine to provide information with regard to my employment with prior employers to (prospective

If an applicant is hired and remains with the new employer for longer than six months, the consent shall be valid for no longer than six months. If the applicant is hired and remains with the new employer for less than six months, the consent shall be valid for six months after the termination of employment.

The following information may be disclosed about a current or former employee's employment history to a prospective employer upon receipt of the written consent from the current or former employee.

1. Date and duration of employment;
2. Current pay rate and wage history;
3. Job description and duties;
4. The last written performance evaluation prepared prior to the date of request;
5. Attendance information;
6. Results of drug or alcohol tests administered within one (1) year prior to the request;
7. Threats of violence, harassing acts, or threatening behavior related to the workplace or directed at another employee;
8. Whether the employee was voluntarily or involuntarily separated from employment and the reasons for the separation; and
9. Whether the employee is eligible for rehire.

A current or former employer may disclose information to a prospective employer in a format that is convenient to the current or former employer, including electronically.

The state agency or institution of higher education disclosing such information shall be presumed to be acting in good faith and shall be immune from civil liability for the disclosure or any consequences of such disclosure, unless the presumption of good faith is rebutted upon a showing by a preponderance of the evidence that the information disclosed was false and the agency or institution had knowledge of its falsity or acted with malice or reckless disregard for the truth.

The state agency or institution of higher education will not have immunity when it can be shown that the employer or prospective employer discriminated or retaliated against an employee because the employee or prospective employee has exercised or is believed to have exercised any federal or state statutory right or undertaken any action encouraged by public policy of this state.

A prospective employer is not required to request employment history on a prospective employee and a current or former employer is not required to disclose employment history to any prospective employer.

3.7 Orientation of New Employees

All employees are scheduled in the first week of employment an orientation meeting with representatives of the Commissioner's Office, Technical Support, Communications (Pictures), Finance and Human Resources Offices to discuss benefits, policies and procedures. All staff must complete payroll information forms and other essential paperwork in the Human Resources and Finance Offices. The necessary documents will include:

- Acknowledgement forms regarding ADE policies
- State tax withholding form
- Federal tax withholding form
- I-9 form (Employment Eligibility Verification) for both part-time and full-time employees
- Eligibility to operate state vehicle form
- Direct deposit form
- Arkansas Teacher Retirement System forms

All full-time employees must also complete:

- Health insurance application (with option form)
- Life insurance enrollment form
- Dental insurance enrollment form, if desired
- Vision insurance enrollment form, if desired

Other necessary forms may be required by changes in federal laws, state laws or policies.

Pay Procedures - Pay is issued by the State of Arkansas twenty-six (26) times each year on a bi-weekly basis. Effective August 12, 2005, as a condition of employment, a person hired or appointed to ADE is required to accept payment of salary or wages by electronic warrants transfer (direct deposit) to the employee's financial bank account. New hires must complete the Mandatory Direct Deposit Notification Form at the time of the job interview. Deposit authorizations are done at the time of the orientation. Changes to the authorizations can be done anytime by contacting the Payroll Benefits Specialist in the Finance Office or the Human Resources Office.

3.8 Identification Badges/Cards

ADE employees are issued an Employer Identification Badge (ID) with photo when hired. To ensure a safe and secure workplace and promote a positive public image, an ID badge serves the dual purpose of readily identifying ADE employees and the Division in which they work as well as other authorized personnel, while providing measured protection against unauthorized personnel and intruders. This ID badge provides access to ADE buildings through keyless entry.

Employees are required to have an ID badge available for presentation at all time. Any employee refusing to show his/her ID badge when requested may be subject to disciplinary action up to and including discharge from employment.

When an employee terminates, ADE must retrieve the ID badge as well as other ADE property. In the event an employee terminates without notice the Human Resources Office shall contact the Central Services immediately to have all access codes associated with the ID badge cancelled.

Any employee losing his/her ID badge should notify the Human Resources Office, immediately. A fee of \$15.00 will be charged to replace a lost badge.

3.9 Employment Positions with Licensure Requirements

An individual in a position that requires a license is responsible for maintaining valid license. A valid license means an active license. Failure to obtain or maintain a current license, certificate or other qualification required by law or rule as a condition of continued employment may warrant disciplinary action.

When you renew your Arkansas Educator's License, be sure to look it over carefully. If it is not exactly as you believe it should be, immediately contact the Office of Educator Licensure. If it is correct, supply an original copy of the license to the Human Resources Office. Failure to obtain or maintain a current license or certificate or other qualification required by law or rule as a condition of continued employment may warrant disciplinary action. For information on educator license applications or renewals, please contact the: Arkansas Department of Education, Office of Educator Licensure, Four Capitol Mall, Room 106B, Little Rock, AR 72201, Phone (501) 682-4342 Fax (501) 682-4898
Email: ade.educatorlicensure@arkansas.gov

For positions with other license requirements please contact the respective office to maintain a valid license.

3.10 Guidelines for Personnel File Contents

Under no circumstances can personnel files be removed from the Human Resources Office. The official employee personnel file is the property of ADE and any access to the information they contain is restricted and confidential as allowed by law.

Employees may review their personnel records and have them copied, but may not remove documents from the file. Such an inspection must be requested in writing to the Human Resources Office and will be scheduled at a mutually convenient time. All inspections must be conducted in the presence of a designated member of the Human Resources Office. Requests to review personnel files under the Arkansas Freedom of Information Act shall be handled in accordance with the provisions of that Act.

The Human Resources Office shall maintain a personnel file for each employee containing pertinent information regarding their employment relationship with ADE. The information contained within the file shall be consistent with state and federal laws and regulations, ADE policies, as applicable. Access is limited to supervisors or others with administrative responsibility, persons responsible for maintenance of the files, or others granted access by ADE policy or contractual requirements.

Personnel files contain forms related to the staff member's employment; i.e., resumes and/or application materials and letters of offer, change of status forms, performance appraisals, letters of recognition and/or commendation and any disciplinary record. Grievance materials, including documents related to discrimination or sexual harassment complaints, will be maintained in a separate file. Letters of recommendation supporting the employee's original hire will be held in a separate file rather than the employee's personnel file.

A separate medical file is maintained for information related to Worker's Compensation, the Family and Medical Leave Act, designation of the employee as protected under the ADA and documentation relating to accommodations, as well as Leave of Absence forms regarding the same. All forms and correspondence related to personnel actions covered by these acts or correspondence containing personal medical information are held in separate files. The ADA provides that the separate ADA related medical file must be kept separate, apart from the location of personnel files and that access is limited to those supervisory personnel involved in the implementation of workplace accommodations.

Employees are free to forward copies of certificates, special awards, letters of commendation, or other similar items to the Human Resources Office for inclusion in their personnel file. The personnel files for employees who have terminated are maintained in the Human Resources Office.

3.11 Supervisor's Working File

The supervisor's working file is a confidential file and is only to be disclosed to those with a "business need to know or as required by law." No clerical or administrative staff are authorized to maintain these files.

A supervisor's file on an employee is documentation of incidents, behavior, communications, counseling, compliments, attendance patterns, or any other note the supervisor wishes to store to help refresh his/her memory at some later date. Only the current supervisor can place documentation or notes in this file, remove them or even review them. The file is not to be open for review by other supervisors, managers, employees, or even the employee. Since it can contain anything the supervisor wants, the file or its contents cannot be considered in the hiring process, or used as evidence to support an evaluation or disciplinary action. A supervisor's working file is not considered part of the official personnel file. Any personnel action can only be based on what is in the official personnel file. If any information in the supervisor's file is to be used as the basis for a timely personnel action, it must be placed in the employee's official personnel file. Any information upon which the supervisor intends to take formal action should be moved into the personnel file in the form of a Performance Improvement Plan (PIP), letter of warning, Notice of Intent (NOI) or other disciplinary documentation and a copy given to the employee.

After a supervisor no longer has a relationship with ADE, the documents in the supervisory file (retirement, transfer, adverse action, resignation, etc.), shall be sent to the Human Resources Office, immediately for appropriate destruction. If the employee should be reinstated to a position under the same supervisor, the supervisor shall establish a new file, which will not include any prior information.

3.12 Required Data for Personnel Files

The following information is required for **all** personnel files that are housed in the Human Resources Office. These files serve as the historical record of information pertaining to a staff employee from the date of hire to separation:

1. Employment application and resume
2. Tax forms
3. Personal data (job description, communications, compensation history and documents related to the current position and employment status).
4. Teacher retirement membership forms
5. Direct deposit authorization forms
6. Copy of birth certificate
7. Copy of social security card
8. Signed Code of Ethics/Fraud form
9. Signed form - ADE Handbook with accompanying policies
10. Performance Evaluations
11. Documentation on disciplinary issues
12. Salary disclosure forms for required personnel
13. Personnel action documents (accommodations, commendations, written letters of warning, letters of retirements/terminations)

Formal employee complaints, sick leave documentation and medical information items are kept in a separate confidential file, but are still considered part of the official personnel file:

3.13 Personal Data Changes

When employees are hired, they provide ADE's Human Resources Office with information needed to place them on the payroll. Keeping personnel files up to date is important.

Employees have a responsibility to promptly notify ADE's Human Resources Office of any changes in name, address, telephone number, number of dependents, education or training, professional registration or certification, direct deposit, etc. For beneficiary changes, contact the Payroll Benefits Specialist in the Finance Office. The employee may also contact ATRS, 501.682.1517 or Employees Benefits Division, whichever is appropriate.

3.14 Probationary Employees

Probationary Period

An initial probationary period is the period of time during which a new employee becomes familiar with his/her new job. The new employee will determine whether or not he or she can perform the duties of the job and if he or she wants to keep the job. Likewise, ADE uses the time to determine whether or not the employee can perform assigned tasks satisfactorily and whether or not the employee can and is complying with work rules and policies.

The duration of the probationary status shall be six (6) months from their date of hire. The period shall be an essential part of the examination process and shall be utilized for the most effective adjustment of a new employee. At the end of the probationary period, ADE must place the employee in a regular full-time position or terminate the employee if his/her performance is determined to be unsatisfactory. At the discretion of the Assistant Commissioner/designee, the probationary period may be extended for a period not to exceed an additional six (6) months, in the event that further evaluation is necessary.

Extensions must be in writing and issued prior to the end of the initial probationary period, and must identify the reasons for the extension and what the employee must do to successfully complete the probationary period. A copy of the extension must be signed by the employee and submitted to the Human Resources Office. If the employee is off work for an extended period of time the dates of the extended probation will be adjusted accordingly. Successful completion of the probationary period does not create a contractual commitment to continued employment. When an employee completes the probationary period, his/her status is still one of employment-at-will.

Employees who are rehired following a break in service shall serve a new probationary period whether or not they previously completed a probationary period.

Other Probationary Periods

ADE employees who are promoted, demoted for cause, voluntarily solicit a demotion or request and are granted such transfer into another position, will serve a six (6) month probationary period. These probationary periods may be extended up to an additional three (3) months.

Disciplinary Probationary Periods

Any employee may be placed into a probationary status because of unsatisfactory work performance and/or because of work rule violations. Disciplinary probationary periods may be up to six (6) months in

duration and may not be extended beyond six (6) months.

Any time during an employment probationary status period (initial new hire, transfer probationary status, discipline probationary status) probationary employees may be terminated from ADE without right of appeal or hearing. Recommendations regarding dismissal are made at the Assistant Commissioner level to the Assistant Commissioner of Human Resources after consultation with the immediate supervisor and discussion with the effected employee. The reason given for the termination shall be submitted in writing to the Human Resources Office. ADE recognizes that dismissal for any reason is a serious matter.

Promotion/Demotion/Transfer

Upon promotion, a change to a higher grade with significantly higher job duties, an employee's salary shall be calculated as follows:

- For a promotion to a position of a higher grade on the same pay plan, the employee's maximum rate of pay shall be increased by 10%.
- For a promotion from a position on the career service pay plan to a position on the professional and executive pay plan, the employee's rate of pay shall be increased by 12%.

Demotion

An employee who is demoted for cause or voluntarily solicits a demotion of one or more grades on the career service pay plan or on the professional and executive pay plan, the employee's pay rate shall be lowered by 10%.

Upon demotion from a position on the professional and executive pay plan to a position on the career services pay plan, an employee's pay rate shall be reduced by 12%.

Lateral Transfer

A lateral transfer is a move from one classified position to another with the same grade, salary and title with no change in eligibility date.

3.15 Employment Separation/Termination

An employee of ADE is free to terminate employment at any time and for any legal reasons, which may include but are not limited to: an employee's resignation, retirement or death; a reduction in the workforce; the existence of applicable identified significant performance concerns (e.g., poor job performance or other issues related to the employee failing to meet performance standards in his/her job) or unacceptable behaviors (e.g., misconduct, negligence, insubordination, poor attendance and other issues related to an employee's general conduct and behavior).

Types of Separation

This section identifies the types of separation from state service and their related procedures and to advise terminating employees of benefits to which they may be entitled.

Notice of Resignation: Resignation is a voluntary separation ("at will") initiated by the employee to end employment with ADE, unless a written agreement approved by the Commissioner of Education is in force.

Although advance notice is not required, ADE requests a minimum of two weeks written (preferably thirty {30} days) notice prior to resignation. Resignations must be submitted in writing with a written explanation for the resignation to the employee's immediate supervisor with the original copy and other documentation supporting the separation sent to the Human Resources Office in a uniform and consistent manner.

Further, it is the manager's/supervisor's responsibility to ensure that the Time and Leave Unit receives the terminating employee's timesheet in sufficient time to process the final paycheck in accordance with state and federal laws and regulations. ADE's Resignation/Retirement form is on ADE Intranet Site at <https://adeemployees.arkansas.gov/Pages/>

If circumstances exist where, for business reasons, the manager/supervisor desires to extend the last date worked, it is reasonable that the manager/supervisor and employee may discuss working out a mutually agreeable alternate date, if possible. Once the last day of work is agreed upon, the separation shall be effective as of that date. The resignation date must not fall on the day after a holiday.

Resignation in Lieu of Involuntary Termination

Employees being terminated may have the option of resigning in lieu of being involuntarily terminated, at the discretion of the division Assistant Commissioner.

If the resignation is accepted, it should be submitted and accepted in writing. However, an employee who resigns in lieu of termination will not be considered eligible for future rehire without a waiver by the Deputy Commissioner of Education.

(**NOTE:** Waivers granted by the Deputy Commissioner of Education to employees who resign in lieu of termination will be maintained in the employee's personnel file and AASIS will be upgraded to "eligible for rehire.")

Retirement: A voluntary separation after meeting Arkansas Teacher Retirement Systems (ATRS) Eligibility Rules. In planning for retirement, an employee should give as much advance notice as possible to his or her manager/supervisor.

Managers/supervisors should encourage retiring employees to consult with an ATRS Counselor to learn about benefit options and coverage based on eligibility rules established by ATRS and to visit the ATRS website at www.atrs.gov.

Job Abandonment: Job abandonment is a voluntary resignation without notice and precludes the employee from future employment with ADE.

Employees who are absent for three (3) consecutive workdays without being excused or does not notify the supervisor of the extent and cause of the absence and provide supporting documentation as required by this policy, will be considered to have abandoned his/her employment, absent extraordinary circumstances.

However, for employees in "extra help" positions, or in regular positions but within the initial six month "probationary" period: On the **first** workday that the employee fails to report to work or follow proper office procedures for reporting the absence, the employee will be considered to have abandoned his/her job and will be terminated, effective the end of the first day of absence.

For employees in regular full-time positions who have passed the initial "probationary" period of six months, job abandonment is defined as follows:

1. At the end of the **third** consecutive workday that the employee fails to report to work at his/her assigned workstation and follow proper office procedures for reporting the absence, the employee will be considered to have abandoned his/her job and the absence will be considered a voluntary resignation of employment with ADE.
2. However, for employees in regular positions within the initial six (6) month "probationary" period, job abandonment is defined as follows:

On the **first** workday that the employee fails to report to work at his/her assigned workstation and follow proper office procedures for reporting the absence, the employee will be considered to have abandoned his/her job and will be terminated effective the end of the first day of absence.

ADE's Human Resources Office shall prepare and send a written notice via overnight mail to the employee. The notice shall advise the employee that he or she has abandoned his/her position and therefore, has voluntarily resigned from employment. The notice also shall indicate the effective date of the resignation. The effective date shall be the last day the employee was at work or on approved leave, whichever last occurred. The notification shall provide at least three (3) work days for the employee to respond with any extraordinary circumstances that the employee believes would warrant a reversal of the determination.

The Assistant Commissioner of Human Resources shall consider this information, in consultation with the supervisor and has the discretion to rescind the job abandonment/voluntary resignation. The employee may not appeal this decision.

Involuntary Termination: An involuntary termination of employment. Termination may be for any reason or no reason at all. However, termination shall not be for an unlawful reason.

Layoff/Reduction in Force (RIF): Termination based upon an action initiated by a division head as a result of the elimination or reductions in positions, funding and grants, reduced or changed work requirements, or departmental reorganization.

ADE management may lay off an employee without prejudice due to significant organizational structure changes, shortage of funds or work, abolishment of positions or duties, loss of functional responsibility and/or the loss/non-renewal of federal funding, grants or other special funds. The Reduction-In-Force Policy assures equitable and consistent treatment of employees throughout ADE should a reduction-in-force occur .

Deceased Employees: A termination due to the death of an employee will be made effective as of the date of death. All compensation due shall be paid to the estate of the employee. Upon receiving notification of the death of an employee, the manager/supervisor must notify the Human Resources Office immediately and advise survivors of the deceased to contact ADE's Finance Office. ADE Finance's Office will process all applicable beneficiary documentation based on appropriate State benefit programs.

Failure of Probation or Introductory Period: Employees that are newly hired, transferred, or promoted into a regular position and fail to meet the expectations of the job requirements will be terminated. Managers/supervisors must consult with the Human Resources Office before any action is taken.

Return of Property Upon Separation

The separating employee must return all ADE property at the time of separation, including but not limited to telephone cards, office building keys, identification badges/cards, credit cards, uniforms, tools, library materials, ADE-issued cell phones, office building security passes, parking decal, electronic equipment, computerized diskettes, electronic voice mail codes and intellectual property, computer passwords and ADE Handbook prior to his/her last day of work. It is the responsibility of the manager/supervisor to ensure that all ADE property is returned to the appropriate unit.

3.16 Retired State Employees Returning to State Employment

Retirees under age 65 cannot return to employment in a position covered by the Arkansas Teacher Retirement System (ATRS) without a required termination period or their retirement will be canceled. This includes part-time or full-time employment with any Arkansas public school, educationally related state agency, college, university and/or post-secondary institution of higher education. If the employee is planning to return to work after retirement, please contact ATRS office at, 501.682.1517 or 1.800.666.2877 toll free or visit www.atrs.gov for ATRS RULES AND REGULATIONS.

A Former ADE or State of Arkansas employee may not contract with ADE for a period of one year after employment is terminated. References: ADE'S Financial and Procedure Policy.

3.17 Employee Disclosure Reference: OPM Policy 30.08

Arkansas law requires applicants or employees to disclose specific relatives who are employed by the state and to disclose their benefit or any relative's benefit from a state contract or grant.

Definitions

Employee: A person whose employment is not seasonal or temporary and whose actual performance of duty requires one thousand (1,000) or more hours during a fiscal year.

Relative: Husband, wife, mother, father, stepmother, stepfather, mother-in-law, father-in-law, brother, sister, stepbrother, stepsister, half-brother, half-sister, brother-in-law, sister-in-law, daughter, son, stepdaughter, stepson, daughter-in-law, son-in-law, uncle, aunt, first cousin, nephew, or niece.

Specific Provisions

Originally, Executive Order 98-04 created applicant and/or employee disclosure requirements regarding family members who are or have been employed by the state and/or receive benefits from a state contract or grant. Existing and subsequent legislation supported the disclosure requirements.

All state agencies, institutions of higher education, boards and commissions are required to obtain completed and signed disclosure forms from the top applicant(s), whether the applicant is a current or former (within the last 24 months) state employee or has never been employed by the state prior to a formal offer of employment. The disclosure requirements are as follows:

- F3-F4 - Employee Disclosure/Certification and Employment of Family Members

Form

- F8 - Employee Disclosure of Family Members Form (State Application Portion)
- F5-F6, F7 - Employee Disclosure Requirements/Restrictions Notice. This portion of the form series is a three page document which includes information to an applicant and/or employee regarding financial interest gained through a familial tie to a state contract or grant, the penalties for nondisclosure, receipt and understanding of the legislation and disclosure of his or her familial relationship, type of business, state contracting entity, amount and nature of the benefit received/to be received.

The F3-F4 form is a two page document in which an applicant and/or employee discloses his or her familial relationship, position and office, as defined. Additionally, the form provides the hiring official and subsequent reviewers, the opportunity to determine whether the applicant/employee meets or does not meet the requirements for hire, as defined.

The F8 form is a checklist format found on state application forms for family member disclosure.

It is imperative that before an employment offer is made, hiring officials must ensure the applicant meets the specified requirements and that proper approval is obtained. If additional approval is needed beyond the Human Resource Manager, the correspondence must accompany the hiring packet.

Agencies, institutions of higher education, boards and commissions must also report the information obtained from the selected applicant/employee disclosure statements. The reporting mechanism is located on the Department of Finance and Administration's Office of State Procurement website:

<http://www.dfa.arkansas.gov/offices/procurement/Pages/forms.aspx>

To report the information obtained from the F3/F4 and F8, use the employee reporting site:

https://www.ark.org/dfa/dfa_disclosure/index.php?type=employee

To report the information obtained from the F7, use the grants and contracts reporting site:

https://www.ark.org/dfa/dfa_disclosure/index.php?type=contract

3.18 Employee Self Service in the Arkansas Administrative Statewide Information System (AASIS)

The AASIS is used throughout the State of Arkansas to process payroll and other related accounting type transactions. Through this system the employee can review/print their pay check (remuneration statement) and review benefit enrollment and leave time by accessing the EZ Arkansas Internet Gateway (Employee Self Service-ESS) at <http://www.ez.arkansas.gov>.

The employee must be on the state network to access ESS. The ESS remuneration statements are now created and downloaded as PDF documents.

All activities on ESS require an AASIS User ID and password. In order to obtain an initial password, an AASIS User ID and personnel number will be needed. Please contact the Human Resources Office for obtaining this information.

3.19 Vehicle Safety Program

The purpose of this program is to check a candidate's Arkansas driver's record to verify a current, valid, driver's license and safe driving record and to reduce State insurance costs and loss of employee work time due to accidents.

1. If the employee is authorized to operate an ADE or private vehicle to conduct ADE business, the employee must maintain a valid driver's license in accordance with the requirements of applicable Arkansas state laws.
2. The employee must complete and sign the Authorization to Operate State Vehicles and Private Vehicles on State Business, VSP-1, to periodically obtain "Traffic Violations Reports". The employee must also provide a photocopy of their drivers' license.
3. If the employee operates or rides as a passenger in a State vehicle equipped with seatbelts, the employee is required to wear the seatbelt. Also, when driving a personal vehicle on State business and receiving mileage reimbursement the employee must wear their seatbelt. Passengers riding with State Employees on business for the State shall also use the seat belt when the vehicle is in motion.
4. The employee must maintain the required liability insurance on the personal vehicle the employee uses to conduct ADE business.
5. The employee must report, in writing, all accidents or traffic violations occurring in a State vehicle within 24 hours or by the next business day and if driving a personal vehicle on State business within seven (7) days of occurrence. (See the Vehicle Safety and Drug-Free Workplace policies.)
6. If the employee has had an at-fault accident, the employee must attend a Defensive Driving Class within sixty (60) days following the accident.

ADE will use the traffic violation point system to identify high risk-drivers. Depending on the number and severity of the employee's traffic violations or accidents, the employee may lose the right to operate a State vehicle. The employee's employment may be terminated if driving is an essential function of the employee's job and the employee's driving record reflects poor performance.

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SECTION IV - PERFORMANCE EVALUATION

ADE administers an Employee Performance Evaluation System which encourages communication between raters and employees and measures performance. The employee performance evaluation system will operate within legal parameters and guidelines in ADE Administrative Directive on Performance Evaluation (PE).

Performance Evaluations		
Rating	Rating Explanation	Description
E	Exceeds Expectations	A rating reflecting the performance of the duties and responsibilities of the job and productivity at a level that substantially exceeds the Above Average level of performance.
A	Above Average	A rating reflecting the performance of the duties and responsibilities of the job at a level which is above the Satisfactory level of performance.
S	Satisfactory	A rating reflecting the performance of the duties and responsibilities which demonstrates competency in the performance of the duties and responsibilities of the job.
U	Unsatisfactory	A rating reflecting the performance of the duties and responsibilities at a level that is consistently unacceptable in accuracy, quality or timeliness.

Merit Increase Pay System: OPM Policy 20.14 policy and Ark. Code Ann. §21-5-1001 et seq. establish a merit increase pay system that is linked to an annual employee performance evaluation system. ADE follows the OPM guidelines of timing and amount of merit increase awards, employee eligibility and related rules and procedures that control merit increases for ADE employees:

- A. To be eligible, an employee must have continuous employment with the state in a regular full-time position for twelve months. An employee would have to have been in continuous state employment since October 1, 2006 to be eligible to receive an increase on October 1, 2007. Those employees who have not accumulated twelve months of continuous state employment by October 1, 2007 shall have their latest hire date in a regular position become their merit increase eligibility date. For example, an employee hired on December 15, 2006 will be eligible for a merit increase payment on December 15, 2007.
- B. Part-time employees in a regular salaried position that complete 2080 hours are eligible as well. Once a part-time employee reaches the 2080 hour mark, the merit increase eligibility date is established and will be re-established each time the employee reaches 2080 hours.
- C. Employees that are rehired into state employment who have not accumulated twelve months of continuous state service by October 1, 2007 shall have their latest hire date become their merit increase eligibility date. This date will then become their merit increase eligibility date for the remainder of their career with the State of Arkansas.
- D. Employees that transfer laterally, promote, involuntarily demote, or voluntarily demote within an agency/institution of higher education or to another agency/institution of higher education will be eligible to receive an annual merit increase on their merit increase date if they have completed six

months of service in the new position and all of the conditions as outlined in the above paragraph are met. The employee's performance evaluation and date of merit increase eligibility remain October 1 or the latest hire date, whichever is applicable. However, if the employee has not completed six months, merit increases will be delayed until six months of service has accumulated. This will not affect future merit increase dates.

- E. **Employees who receive a written performance-based or disciplinary reprimand during the twelve month rating period are not eligible for a merit increase.** The employee's performance evaluation and date of merit increase eligibility remain October 1 or the latest hire date, whichever is applicable.
- F. Employees in Career Service, Professional and Executive pay plans and Non-Classified employees shall be eligible for a merit increase. The increase shall be paid as a lump sum on the last pay period of the fiscal year and the merit payment will not be construed as exceeding maximum salary. An employee must be in active pay status during the last pay period of the fiscal year to receive a lump sum merit payment.
- G. The employee must have not been disciplined for a violation of the Code of Ethics and/or Employee Conduct Standards Policy; AND
- H. The employee has a PE score equivalent of "satisfactory" or above; and, if applicable AND, as appropriate.
- I. If the employee is a supervisor, he/she must have completed all required PE reviews and submitted them on the employees under their administrative control to the Human Resources Office in a timely manner, 30 days prior to eligibility date. If the supervisor fails to complete an annual evaluation of employees under their administrative control shall not be eligible for merit payments themselves.

The categories of performance are defined below:

When an employee is promoted, demoted or transferred during an evaluation period, the following guidelines apply:

1. If the employee is promoted, demoted or transferred within the first ninety (90) days of the evaluation period, the new supervisor will establish and rate the employee on performance in the new position.
2. If the employee is promoted, demoted or transferred after the first ninety (90) days of the evaluation period, the first supervisor will complete a formal evaluation for the period of employment. The new supervisor will establish and rate the employee on performance in the new position and will consider the first supervisor's evaluation in determining the overall performance for the annual evaluation period.

The merit increase system is a performance-based pay system which incorporates pay and performance evaluation standards and establishes criteria for salary adjustments for employees who meet requisite performance categories. Merit payments may be awarded to employees who satisfy performance-based criteria.

Employee merit increases, awarded under an approved of performance evaluation system, shall be a maximum of:

Performance Rating	Percentage Increase
Unsatisfactory	0 %
Satisfactory	1.5%
Above Average	3.0%
Exceeds Standards	4.5%

The Chief Fiscal Officer (CFO) of the State determines whether general revenue funds are sufficient to implement the authorized merit increase. The CFO, upon approval of the Governor, may reduce the percentage of all authorized merit increases for all state employees without regard to whether the employees are compensated by general or special revenues, federal funds, or trust funds. If sufficient revenue funds should become available at any time during the fiscal year to provide the merit increase for all state employees without regard to source of revenues, merit increases for state employees may then be fully or partially implemented by the CFO of the State.

Employees in positions assigned to the career service pay plan shall be eligible for a merit payment increase to be paid in a lump sum on the employee's merit increase date and the payment shall not be construed as exceeding maximum salary.

Employees in positions assigned to the professional and executive pay plan shall be eligible for a merit increase, but the increase shall be paid as a lump sum on the last pay period of the fiscal year of the year the merit increase was awarded and the payment shall not be constructed as exceeding maximum salary. An employee must be in active pay status during the last pay period of the fiscal year to receive their lump sum merit payment.

Non-classified employees in positions with maximum annual salary rates set out in dollars established by law shall be eligible to receive a merit increase but the increase shall be paid in a lump sum on the last pay period of the fiscal year in which the increase occur and the payment shall not be construed as exceeding maximum salary. Lump sum merit payments are considered salary for the purposes of retirement eligibility.

Employees on extended leave will receive their merit increase on their merit increase eligibility date if they are in active pay status. Employees not in active pay status will receive their merit increase upon their return to active pay status.

Supervisors of employees on extended military leave without pay will use the employee's most recent performance evaluation score to determine the amount of the merit increase. The increase will be awarded to the military member when they return to active pay status.

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SECTION V - EMPLOYEE BENEFITS PROGRAM

5.1 Employee Benefits

For purposes of this Handbook, a “benefits eligible employee” is defined as a regular employee working at least 1,000 hours per calendar year. All benefits accruing to any full-time employee will be available to the employee on a pro rata basis. Benefits available under the Federal Family Medical Leave Act (FMLA) are governed by separate criteria. (See the FMLA Policy in Section XI.)

ADE offers a benefit package for its eligible employees, including immediate accrual of annual and sick leave, eleven paid holidays and a contributory retirement plan. ADE pays the major portion of medical health insurance for full-time employees and offers several medical plans from which to choose. These plans range from an indemnity plan with a PPO option to HMO's.

Employees may choose to participate in a deferred compensation plan and various options for life insurance, accident insurance, cancer care and intensive care insurance. Employees are also able to participate in the Arkansas Cafeteria Plan which is a program designed to allow an employee to pay for group health and life insurance premiums, dependent day care and out-of-pocket medical care costs tax free.

5.2 Workers' Compensation Insurance

All state employees are covered by Workers' Compensation Insurance which is administered by the Public Employees Claims Division (PECD) of the State Insurance Department. The responsibility for interpretation of this policy rests with PECD. As a state employee, you may be eligible to receive workers' compensation benefits if you incur a job-related injury or illness.

These benefits may include medical benefits and if you are unable to work, income maintenance benefits. Upon proper application, an employee may use their accrued sick leave as a supplement to workers' compensation to receive weekly benefits from both sources equal to, but not more than, their normal weekly pay at the time of the injury or onset of illness. Each agency is assessed premium based on its experience ratio. No contribution is required of the employee. Benefits are tax free and are not subject to Social Security Tax. Injuries involving lost time must be coordinated through payroll processing.

These benefits fall primarily in five (5) categories:

1. Medical and hospital payments
2. Medical mileage payments
3. Payments in lieu of wages during temporary disability
4. Payments for permanent disability
5. Death benefits

A workers' compensation claim must be filed whenever an employee suffers an on the job injury, whether or not the employee plans to seek medical treatment. You should immediately report any on the job injury or incident to your supervisor, regardless of its severity and complete the appropriate form (PECD1) within two (2) days of the incident. This form can be requested from your Human Resources Office or downloaded from: http://www.state.ar.us/insurance/pubempclaims/pecdiv_p1.html

ADE supervisors must immediately complete their portion of the accident report (1A-1) even when their employee refuses medical treatment and place the report in the employee's medical file. (Example: An employee states that he or she hurt their back while performing a work activity but says he or she thinks it will work itself out and does not wish to file a claim). Note: Injured employee must receive copy of front and back of Form AR-N).

If a claim is filed at a later time, the original Report of Injury Form should be sent with the other workers' compensation forms. A claim form must be filed with Human Resources Office within two (2) days of the accident. The Workers' Compensation Commission may fine ADE for filing claims later than ten (10) days from date of injury.

Except for emergency treatment, only physicians on the Workers' Compensation Preferred Provider List may be used. For a current listing of physicians and hospitals see <http://www.insurance.arkansas.gov/PECD/divpage.htm> or contact the Human Resources Office.

Employees must give their supervisor a doctor's statement that indicates the extent of the injury and how long the employee will be absent from work. The employee may return to 'light duty' with the written recommendation of their doctor.

Salary compensation (Lost Time Wages) is not provided until the 8th day of absence due to injury.

- Day 1 through 7, (calendar days) is a waiting period. During this time, only allowable medical expenses are paid. If the employee wants full or part wages, he or she must use earned leave, if available.
- Starting with day 8, Workers' Compensation can pay approximately two-thirds (2/3) of the employee's salary. Employees may continue to use earned leave to supplement partial salary payments.
- Day 14, Salary payments are made back to the second day of injury when the disability extends for at least two weeks. Salary payments are continued until employee returns to work.

If an employee begins losing time due to a work-related injury; PECD should be notified by way of a Form "S". A form "S" should also be completed and forwarded to PECD when an employee returns to work after being off from a work-related injury.

This will enable an eligible employee to qualify for coverage as quickly as possible. Worker's compensation benefits and medical expenses shall be reviewed pursuant to state law.

Employees who are absent from work due to a temporary occupational injury or illness and who are approved for workers' compensation benefits may use their accrued leave as a supplement to such benefits. This option reduces the employee's accrued leave on a proportional basis. The combination of workers' compensation benefits and other leave benefits cannot exceed the employee's normal pay period salary. If earned leave is available, it may be used to supplement Workers' Compensation benefits in the following order:

- earned sick leave;
- earned holiday or annual leave;
- LWOP

Employees may choose not to use their leave to supplement their workers' compensation benefit. When this option is chosen they are placed on LWOP and do not earn annual, sick or holiday leave.

When a holiday occurs while an employee is on workers' compensation, that day is charged as a holiday. Holidays are earned and used at the same rate as paid by ADE.

Claims determinations are made by the PECD. In the event a claim is denied, the injured employee will be notified by PECD and informed of any rights to appeal.

An employee should not be allowed to return to work until a report stating that the patient is physically able to resume work is received. If a doctor returns an employee to work with restrictions that are not ambiguous, a form created by the doctor's office will be sufficient.

Extra Help employees are not eligible for job injury, annual or sick leave, but are eligible for Workers' Compensation benefits as determined by PECD.

Any employee sustaining a job related injury must report the injury to his/her supervisor and complete appropriate forms. The claim forms may be obtained on the Internet at <http://www.state.ar.us/insurance/pubempclaims/pecdiv.pl.html> or by writing to the Public Employee Claims Division, Arkansas Insurance Department, 1200 West Third Street, Suite 201, Little Rock, Arkansas 72201, Telephone 501.371.2700 or 1.866.278.8066. To receive Workers' Compensation benefits, an employee must be seen by USABLE Managed Care Organization (MCO). If an employee does not receive treatment through this MCO or does not obtain permission to not use this MCO, then the employee may be required to pay for any treatment received. Emergency treatment is exempt from this requirement. Additional information can be obtained from the Human Resources Office. Required Workers' Compensation Forms are: 1-A1, PECD 1, AR-N, PECD 2 and AR-S.

Specific Provisions

The combination of workers' compensation benefits and sick leave pay shall not exceed the employee's normal pay period salary. Employees receiving workers' compensation benefits for a permanent disability are eligible for full pay from both sources.

The option will reduce the employee's accrued sick leave on a proportional basis. For example, an employee's normal salary is \$150.00. The employee receives \$75.00 workers' compensation benefits and elects to receive an additional \$75.00 per week in sick leave payments. Thus, the employee uses sick leave at a rate of one-half the weekly salary which is equivalent to 2-1/2 days of sick leave for each week of disability.

Leave used will be reinstated in reverse order from which absence due to sick leave is charged for that portion of time taken that was covered by workers' compensation. For example, absence due to sick leave is charged in the following order: earned sick leave, earned annual leave, leave without pay. Reinstated leave will then be annual leave, then sick leave. Leave without pay is not covered by workers' compensation and therefore is not reestablished.

In the event an employee receives workers' compensation payments as a salary benefit in addition to sick leave payments and the combined payments exceed the employee's normal weekly pay, the employee shall pay the excess amount to the agency for deposit in the agency's fund from which the sick leave has been paid. Upon receipt of the excess amount of pay, the agency shall then restore to the employee's credit that amount of sick leave that was used in a proportion that the workers' compensation payment is to the employee's weekly pay.

ADE must continue to remit the employer's contribution to the State Employees/ Public School Employees Insurance Program when an employee is on leave without pay and receiving workers' compensation benefits as a result of a work related injury or illness.

Under no circumstances will Workers' Compensation and the employee's regular salary exceed the employee's regular salary.

5.3 Employee Assistance Program (EAP)

EAP is available to all employees and their families. EAP provides immediate professional assistance with personal, work related or emotional issues. A trained professional will assist with making an appointment with a licensed therapist or provide names and telephone numbers for network therapists. The EAP website features free articles, audio features and financial calculators to help with budgeting and investing, legal forms and newsletters. More information may be obtained by contacting Employee Benefits Division (EBD) ARBenefits, 501 Woodlane St., Suite 500, Little Rock, AR 72201, or Guidance Resources at (877) 247.4621 [Toll Free] TDD:800.697.0353, or www.arbenefits.org

5.4 Benefits Payable Upon Termination Resignation or Retirement

Upon termination of employment with ADE, all accrued vested benefits that are legally due and payable will be paid. Some benefits may be continued at the employee's option and expense. The employee will be notified in writing of the benefits that may be continued and of the terms, conditions and limitations of such continuance.

5.5 Health Insurance and Other Benefits

Full-time and some extra help employees are eligible to enroll in Arkansas state group insurance plans.

ADE also offers additional insurance options for term life, dependent life, vision, dental, accident, cancer, heart/stroke, ICU, disability, and long-term care and offers flexible medical spending accounts. These policies are offered through independent local insurance representatives. Local representatives are also available for 403(b) and 457(b) plans. Most are available for enrollment year around with no open enrollment.

Medical and Minnesota Life Insurance: As an employee, you are eligible to enroll in Arkansas state group insurance plans. Medical and Minnesota Life insurance policies are managed by the Employee Benefits Division (EBD) of the State of Arkansas. The employee should respond to EBD on medical insurance coverage regardless of whether to accept or decline; the employee can do this by completing paper enrollment forms or on the internet at www.arbenefits.org. Pricing and policy information is available on the EBD website. Medical and life insurance enrollment is due within 30 days of the hire or the next open enrollment period. Coverage begins on the first of the month following the date of application.

Supplemental coverage options: As an employee, you are eligible to enroll in Arkansas state supplemental insurance and supplemental annuity options. These are supplemental policies, not managed by EBD; the employee must enroll directly with the appropriate company agent. Some supplemental policies can be made part of the Cafeteria Plan; therefore, it is recommended that the employee enroll in

their choice. Agent contact information for the supplemental plans is available through ADE's Insurance Representative in the Finance Office, Room 204A or at 501.682.4478 or on EBD's website.

Payment: All policy premiums will be deducted from regular paychecks and remitted directly to the company by EBD.

Effective January 1, 2014 all new hire full time employees and rehired employees will automatically be enrolled in the Arkansas Diamond deferred compensation plan managed by ING with a 3% employee contribution. Employees may "opt-out" within 30 days or choose to contribute more or less than the 3%.

Transferring benefits: If transferring from another Arkansas agency/institution of higher education under the State EBD umbrella, benefits will be transferred, automatically through AASIS. Other supplemental policies will be transferred as allowed; it is the employee's responsibility to verify all deductions have been successfully transferred.

Assistance: ADE's Payroll Benefits staff will assist the employee as law allows. The Payroll/Benefits Office is located in Room 204A. Contact the staff member by telephone at 501.682.4478. For specific medical or life insurance assistance please call EBD Customer Service at 501.682.9656 or toll free at 877.815.1017.

For supplemental policy assistance please contact www.arbenefits.org

5.6 Career Service Recognition Payments: OPM Policy Reference: 20.16

Employees become eligible for the annual Career Service Recognition Payment upon completion of 10 or more years of service in a regular salary full-time position. Extra- help service may not be counted.

Years of Service	<u>Annual Payment</u>
10 through 14 Years of State Service	\$600
15 through 19 Years of State Service	\$700
20 through 24 Years of State Service	\$800
25 or More Years of State Service	\$900

Employees receive their Career Service Recognition payment on their 10th anniversary and then each year of active service thereafter. Employees who are paid at maximum for their pay grade are also eligible to receive these payments. Federal and State taxes are withheld from these payments.

5.7 Arkansas Teacher Retirement System (ATRS)

ADE employees participate in the Arkansas Teacher Retirement System. ATRS is a defined benefit plan under 401(a) of the IRS Code. ATRS is one of the state retirement systems and is governed by retirement law of the State of Arkansas. ATRS provides retirement, disability and survivor's benefits to employees of Arkansas public schools and other education related agencies. Upon beginning employment with ADE, 6 percent (6%) of the employee's salary is deducted each pay period on a pre-tax basis and matched with a contribution of 14 percent (14%) from the state to be deposited in the employee's retirement account.

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SECTION VI - PAID AND UNPAID LEAVE

The purpose of this section is to establish agency procedures for eligibility, accrual and use of annual, sick, maternity, court and jury, holiday, without pay, Workers' Compensation, military, educational, family medical, children's educational activity, disaster service volunteer, organ donor leave and shared leave

When requesting annual, sick, holiday or comp leave in less than 1 hour increments record it as follows: (.25) for a quarter hour, (.50) for a half hour and (.75) for three quarters of an hour.

6.1 Annual Leave Reference: OPM Policy 50.01

This leave policy is applicable to all regular or probationary State employees except emergency, hourly, intermittent, extra help and per diem employees. An employee who works in a regular salary position shall accrue annual and sick leave in the same proportion as time worked.

When an officer or employee of a state office or agency excluded from the provisions of the Uniform Attendance and Leave Act leaves employment of the excluded office or agency and becomes employed by ADE which is subject to the Uniform Attendance and Leave Act, the period of employment with the excluded office or agency shall be included as state employee service for the purpose of determining the rate at which the employee earns paid annual leave.

**Annual Leave Accrual
Timetable**

Accrual rates will change on the first day of the month following eligibility for the next higher accrual rate.

YEARS OF SERVICE	ACCRUAL PER MONTH	AMOUNT PER YEAR
0 through 3 years	1 day (8 hours)	12 days per year
4 through 5 Years	1 day, 2 hours (10 hours)	15 days per year
6 through 12 Years	1 day, 4 hours (12 hours)	18 days per year
13 through 20 Years	1 day, 6 hours (14 hours)	21 days per year
Beginning 21 st year and over	1 day, 7 hours (15 hours)	22.5 days per year

A full-time employee who works a minimum of 1000 hours per year in a regular salary position shall accrue annual leave at the rate shown in the timetable listed above. A regular/classified salaried employee or an unclassified employee who works less than full-time but more than 1000 hours per year accrue annual leave in the same proportion as time worked. For example, a regular employee who works half-time would receive one-half of the annual leave accrual shown on the timetable. Employees must have completed full years of employment before movement to the next higher accrual rate. For example, an employee would not move to the second level of annual leave accrual rate until they had completed three (3) full years of employment and are starting their fourth (4th) year. Annual leave pay is based on employee's regular rate of pay.

Annual leave must be earned before it can be used. Employees will accrue half their monthly accrual of annual leave if employed on the first (1st) working day of the month and work through the 15th of

that month.

Employees will accrue the second half of their monthly accrual if employed on the 16th of the month and work through the last working day of that month. (If the 16th falls on a weekend or holiday, accrual begins on the first working day, thereafter). No leave is earned for the month if hired after the 16th.

- The minimum annual leave amount an employee can use is fifteen (15) minutes or .25 hours. No smaller amounts shall be used.
- Employees continue to earn annual leave at their normal accrual rate when on annual or sick leave.
- Employees will not borrow from anticipated future accruals and may not use annual leave accrued by other employees.
- An employee may not earn annual leave when on LWOP for ten (10) or more cumulative days within a calendar month.
- An employee may request to use accrued annual leave at any time. The Division Assistant Commissioner or designee may grant the leave request at such time that will cause the least disruption to the efficient operation of the Division/Section/Unit.
- Annual leave exceeding a three (3) day period should be cleared, preferably thirty (30) days in advance with your supervisor to assure that your vacation scheduling does not disrupt your section/unit operations. In extreme or emergency situations, your supervisor may terminate or reschedule requested vacations.
- Annual leave is granted on the basis of work days, not calendar days. Non-work days, such as holidays and weekends, are not charged as annual leave.

The length of eligible service is calculated on the basis of a benefit year. A benefit year is the twelve (12) month period that begins on the date the employee is hired. An employee's benefit year may be extended due to any significant leave of absence, except military leave or Family Medical Leave Act (FMLA). Military or FMLA has no effect on this calculation. (See Section 6.14 for the appropriate leave of absence policies for more information.)

Annual leave is cumulative. No employee shall have more than thirty (30) days or 240 hours annual leave accumulated at the end of each calendar year. The employee may accumulate more than thirty (30) days of annual leave during the calendar year. At the end of the calendar year, annual leave accumulated in excess of thirty (30) days or 240 hours will be forfeited.

Years of employment may be continuous state employment or an accumulation of service when the employee is out-of-state service for a time. However, seniority for reinstated employees with service after July 1, 1975 will be brought forward in completed years of service only. Service prior to July 1, 1975 will be established in completed years and completed months.

Terminating employees will accrue leave for the month in which they terminate, according to the following schedule:

Date of Termination	Amount of Leave Accrued
---------------------	-------------------------

Prior to 15 th of month	None
On or after 15 th of month	½ month's accrual
Last workday of month	Full month's accrual

All compensatory time should be used before the use of annual leave.

Employees transferring without a break in state service, between State agencies and/or State supported institutions of higher education, which are covered by these policies, shall retain all accumulated annual leave.

No employee will be paid for more than thirty (30) days or 240 hours accumulated annual leave at the termination of his/her employment, inclusive of holidays.

ANNUAL LEAVE HOURS IN EXCESS OF 240 HOURS IF NOT TAKEN PRIOR TO OR ON DECEMBER 31 MAY BE DONATED TO THE CATASTROPHIC LEAVE BANK OR THE LEAVE WILL BE FORFEITED. EMPLOYEES MAY HAVE ONLY 240 ANNUAL LEAVE HOURS.

JANUARY 1, HOLIDAY LEAVE BALANCES AT THE END OF THE YEAR WILL NOT BE TRUNCATED. (Donation forms are located in Section XI behind the Catastrophic Leave Policy.)

6.2 Catastrophic Leave Bank Program Reference: OPM Policy 50.02.

Purpose

The purpose of this policy and the accompanying procedure is to establish a Catastrophic Leave Bank Program for the exclusive use of the regular, full-time employees of ADE as authorized by Ark Code Ann. §§ 21-4-214 and 21-4-217 and according to the rules and regulations approved by the DFA - OPM. ADE's Catastrophic Leave Bank Program creates no expectation or promise of continued employment with ADE and is intended simply to assist eligible employees during medical emergencies.

Definitions

Catastrophic Leave Bank: A pool of accrued annual and sick leave voluntarily donated by employees which may be approved for use by employees who meet the catastrophic illness/injury eligibility requirements.

Catastrophic Illness: A medical condition of an employee, spouse, parent of the employee, or a child of the employee which may be claimed as a dependent under the Arkansas Income Tax Act of 1929, as certified by a physician that requires an employee's absence from duty for a prolonged period of time and which, except for the catastrophic leave program, would result in a substantial loss of income to the employee because of the exhaustion of all earned sick, annual, holiday and compensatory leave.

Dependent Child Certification: Complete the "Dependent Child Certification Form", sign and attach to the catastrophic leave request. If the child was acquired after the most current income tax filing, provide other proof, i.e., birth certificate, adoption order, etc.

Medical Condition: Emergencies limited to catastrophic and debilitating medical situations, severely complicated disabilities and/or severe accidents of the employee or a qualifying family member which

cause the employee to be unable to perform their job, require a prolonged period of recuperation and/or require the employee's absence from duty as documented by a physician or other individual. Disabilities resulting from elective surgery do not qualify for catastrophic leave.

Prolonged Period of Time: A continuous period of time (minimum of thirty (30) working days) whereby a medical condition prevents the employee from performing the employee's duties.

Shared Leave: The donation of an employee's earned sick or annual leave to another employee who is employed by the same state employer or same state-supported institution of higher education, who is suffering from a severe illness or has an immediate family member who is severely ill.

Substantial Loss of Income: A continuous period of time where the employee will not be compensated by ADE due to a medical condition after the exhaustion of all earned sick, annual, holiday and compensatory leave.

Eligibility Requirements for Catastrophic Leave

1. The applicant must be a regular, benefits-eligible, full-time, employee of ADE participating in an approved Catastrophic Leave Bank program. A person who works less than full-time (forty hours per week) is excluded from this definition and, as such, is ineligible to participate as a donor or recipient in the Catastrophic Leave Bank Program. Requests for exceptions may be submitted for review.
2. The employee, if covered by the "Uniform Attendance and Leave Policy Act", must have been employed by the State of Arkansas for more than two (2) consecutive years in a regular, full-time position.
3. Employees must have exhausted all sick, annual, holiday and compensatory leave time and at the onset of the illness or injury, and had to his or her credit at least eighty (80) hours of combined sick and annual leave. "Onset of the Illness" means the initial beginning or start, as certified by a physician, of the medical condition which created the need for the catastrophic leave request. If a recurrence of the same illness necessitates a subsequent catastrophic leave request, the eligibility requirement that the employee have eighty (80) hours of combined sick and annual leave at the onset of the illness shall not be required on the illness recurrence date. The "80-hour requirement" may be waived for an otherwise eligible employee if an "extraordinary circumstance" is declared by the Commissioner of Education due to the applicant providing documentation that one of the following conditions has occurred:
 - The employee applying for catastrophic leave had, during the previous two (2) year period, another medically documented, catastrophic illness, as defined by this policy, which was not compensated under an approved Catastrophic Leave Bank Program and caused the exhaustion of all annual and/or sick leave, or
 - The employee applying for catastrophic leave had, during the previous two (2) year period, exhausted his or her sick and annual leave as a direct result of supplementing workers' compensation benefits, which were received due to an on-the-job injury or illness with the State of Arkansas.
4. If the illness or injury is that of an employee and is covered by workers' compensation, the compensation based on catastrophic leave, when combined with the weekly workers' compensation

benefit received by the employee, shall not exceed the compensation being received by the employee at the onset of the illness or injury.

5. The employee has not been disciplined for leave abuse during the past two (2) years.
6. No employee shall be eligible for approved catastrophic leave in excess of six (6) months (1,040 hours) unless it can be ascertained that the employee has been denied disability retirement or Social Security benefits. The employee has the option of reapplying for additional leave at the conclusion of the catastrophic leave period; however, the combination of shared and catastrophic leave received by an employee may not exceed two thousand eighty (2,080) hours in a calendar year.
7. No employee shall be approved for catastrophic leave unless that employee is, or is reasonably expected to be, on leave-without-pay status as a result of the catastrophic illness.
8. In no case shall the employee be granted catastrophic leave beyond the date certified by a physician as the date when the employee is able to return to work because the health of either the employee or the qualifying family member has sufficiently improved.
9. No employee shall be approved for catastrophic leave unless that employee has provided an acceptable medical certificate from a physician (or other individual as provided by A.C.A. §§ 21-4-201 et seq.) supporting the continued absence and setting forth that the employee is and will continue to be, unable to perform the employee's duties due to a catastrophic illness of the employee or a qualifying family member. Information about the employee's assigned duties shall be made available to the physician and to the Catastrophic Leave Committee.

Donations of Leave to the Catastrophic Leave Bank

The Commissioner of Education shall screen leave donated by the employees of ADE to ensure that the following criteria are met:

1. Accrued leave may only be donated to the Catastrophic Leave Bank in one (1) hour increments.
2. No employee of ADE shall be allowed to donate leave to the Catastrophic Leave Bank if such donation will reduce that employee's accrued sick and annual leave balance to less than eighty (80) hours. This restriction does not apply to employees who are terminating their employment.
3. Annual and/or sick leave which has been donated to the Catastrophic Leave Bank may not be restored to the employee who donated the leave time.
4. Approved donations of leave shall be transmitted to the Catastrophic Leave Bank by submitting an approved donor form.

ADE Catastrophic Leave Committee

Membership: The Committee shall be comprised of at least nine (9) members representing a cross section of ADE employees or staff and appointed by the Commissioner of Education. The Committee shall elect a chairperson from the committee membership.

Responsibility: The purpose of the Committee will be to review all catastrophic leave requests, ensure that all eligibility requirements are met and make recommendations to the Commissioner of Education. The Committee shall make determinations of continuing eligibility.

Catastrophic Leave Bank Administration

1. Applications for catastrophic leave shall be reviewed on a first filed, first reviewed basis. Approval does not guarantee that a catastrophic leave applicant will receive leave should there be a zero balance in ADE's Catastrophic Leave Bank.
2. Members of the Committee will review applications from employees for catastrophic leave and make recommendations to the Commissioner of Education.
3. Determinations by ADE's Catastrophic Leave Committee shall be reviewed by the Commissioner of Education.
4. The Commissioner of Education cannot grant catastrophic leave exceeding that approved by ADE's Catastrophic Leave Committee; however, appeals may be made or the employee may reapply for additional hours.
5. If the employee does not agree with ADE's Catastrophic Leave Committee's final recommendations, he or she may appeal to the Commissioner of Education.
6. The Commissioner of Education's decision is final and binding on all parties.
7. Only eligible employees of ADE may participate in ADE's Catastrophic Leave Bank Program.
8. Catastrophic leave may be granted or donated in one-hour increments only.
9. Catastrophic leave shall not be awarded retroactively.
10. Catastrophic leave which would result in a negative balance in ADE's Catastrophic Leave Bank shall not be approved.
11. Employees on catastrophic leave will continue to accrue leave in accordance with existing state leave policies and will receive the normal state benefits, such as ADE contributions to insurance and retirement. Employees on catastrophic leave will also continue to receive their normal rate of pay. Catastrophic Leave will not change an employee's increase eligibility date; however, the award of the next merit salary increase will be delayed beyond the anniversary date for the same number of work days that the employee was on leave without pay and/or catastrophic leave.
12. In the event that an employee on catastrophic leave is terminated, retires, dies or returns to work prior to expiration of previously approved catastrophic leave time, all unused catastrophic leave shall be returned to ADE's Catastrophic Leave Bank.
13. Leave earned while an employee is on catastrophic leave shall, as a condition of voluntary participation in the program, be assigned to the OPM Catastrophic Leave Bank and any restrictions concerning the maintenance of minimum leave balances shall not apply to such assignment. If an employee is on catastrophic leave for even one day in an accrual period, all leave earned during that period shall be returned to ADE's Catastrophic Leave Bank. Exceptions may be made for employees awarded intermittent leave.

14. An employee may be dismissed if such employee fails to report to work promptly at the expiration of the period of approved/granted catastrophic leave. Nothing, however, shall prevent ADE from accepting satisfactory reasons provided by the employee, in advance of the date the employee is scheduled to return to work and from granting leave without pay status to an employee prior to or after the expiration of such catastrophic leave if, in the view of the Commissioner of Education, such action is warranted. Supervisors should not take disciplinary action for such leave until the application has been formally approved or denied.
15. Alleged or suspected abuse of ADE's Catastrophic Leave Bank Program shall be investigated and on a finding of wrongdoing, an employee shall repay all of the leave hours awarded from ADE's Catastrophic Leave Bank and shall be subject to such other disciplinary action as is determined by the Commissioner of Education.

Prohibition of Coercion

An employee may not directly or indirectly intimidate, threaten or coerce, or attempt to intimidate, threaten or coerce, another employee for the purpose of interfering with that employee with respect to donating, receiving or using annual or sick leave. Any report of such described instances shall be reported in writing to the Commissioner of Education. All written reports of such described instances shall be investigated thoroughly and appropriate disciplinary action may be taken for any substantiated violation.

Revised 08/16/2013

6.3 Court and Jury Leave: Reference OPM Policy 50.03

Court and jury leave may be approved for the following reasons:

- Employee is either a plaintiff or a defendant in a court proceeding related to work;
- Employee is summoned as a juror in either a civil or criminal proceeding; or
- Employee is served a subpoena to serve as a witness either for or against a defendant in a court proceeding.

ADE encourages employees to fulfill their civic responsibilities when required. An employee serving as a juror or subpoenaed as a witness to give a deposition in a court or hearing, not involving personal litigation or service as a paid expert witness outside the scope of state employment, shall be entitled to full compensation in addition to any fees paid for such services; and such services or necessary appearances in any court shall not be counted as annual leave. An employee should indicate leave correctly. **Employees must attach a copy of any summons to appear with the leave form and submit to their supervisor as soon as possible.**

If the employee provides reasonable notice to ADE of the required proceeding, the employee shall not be

subject to discharge from employment, loss of annual or sick leave days, accrual rates or any other form of penalty. Jury leave must have an Assistant Commissioner's signature on the leave form. (Ark. Code Ann. §21-4-213)

If an employee has a court appearance for personal or family reasons, an appropriate annual leave form must be submitted to his/her supervisor. Court and jury leave is not approved for non-mandated appearances or for personal legal matters.

6.4 Emergency Paid Leave and Disaster Service Volunteer Leave Reference: OPM Policy 50.05

To promote the most efficient operation of state government, to allow state employees to take emergency paid leave to address the losses they incur in the wake of severe weather conditions such as tornadoes, damaging high winds, heavy rain, and flooding, and to allow state employees to take leave to participate in disaster relief efforts.

Specific Provisions

Emergency Paid Leave

The Governor issued Executive Order 08-09 on May 5, 2008, authorizing up to 40 hours of Emergency Paid Leave for those State employees who suffered loss of, or substantial damage to, their principle place of residence due to the severe weather conditions, including tornadoes, damaging winds, heavy rains and flooding.

Such emergency leave shall be limited to those employees whose principal place of resident is located in a County that the Governor had declared a disaster area as a result of the weather conditions listed above.

The ADE shall compensate an employee granted leave under this section at the employee's regular rate of pay for those regular work hours during which the employee is absent from work.

Affected employees who require additional time off beyond 40 hours of Emergency Paid Leave may submit requests for annual leave under the rules of Annual Leave.

All agency directors shall maintain records of the amount of emergency paid leave claimed and forward their reports to the Office of Personnel Management.

Disaster Service Volunteer Leave

An ADE employee of a state agency, who is trained and certified as a disaster service volunteer by the American Red Cross, whose specialized disaster relief services are requested by the Red Cross in connection with a disaster (as defined in Ark. Code Ann. §12-75-103 and who requests Disaster Service Volunteer Leave and obtains consent from his or her state agency commissioner or director, may be granted leave from work with pay for not more than fifteen (15) working days in any twelve (12) month calendar year period to participate in specialized disaster relief, without loss of seniority, pay, annual leave, sick leave, compensatory time, or overtime wages.

An employee shall be granted leave under this section at the employee's regular rate of pay for those regularly scheduled work hours during which the employee is absent from work.

Leave under this act shall be granted only for disaster relief services occurring within the state of Arkansas or for disaster relief services occurring within states contiguous to Arkansas.

An employee deemed to be on leave under this section shall **not be** deemed to be an employee of the State for the purposes of Workers' Compensation

The number of certified disaster service volunteer state employees shall not be greater than 100 at any one time.

Within 60 days of the request, the American Red Cross will prepare a report to submit to the Department of Finance and Administration stating the reasons and needs for the request.

With regard to the Employee Request for Leave form, these two types of leave shall be specified in the leave category and codes as follows:

1. State employees receiving emergency paid leave will be categorized in the 'Other' column on the leave form and coded as PROL;
2. State employees receiving disaster service volunteer leave will be categorized in the 'Other' column on the leave form and coded as DSTR.

Emergency and Rescue Services

An ADE employee who is a member of the following is entitled to fifteen (15) working days of paid leave in a calendar year to participate in a training program or in emergency and rescue services:

1. The United States Air Force Auxiliary Civil Air Patrol or the United States Coast Guard Auxiliary. The leave must be at the request of the employee's wing commander, the wing commander's designated representative, or District 15 Captain; or
2. The National Disaster Medical System, a Disaster Mortuary Operational Response Team, or a Disaster Medical Assistance Team, of the Office of Emergency Management of the Office of the Assistant Secretary of Preparedness and Response of the United States Department of Health and Human Services. The absence must be in response to a United State Department of Health and Human Services National Disaster Team Alert Order. Effective 7/22/2015

6.5 Family and Medical Leave Policy Reference: OPM Policy 50.07

Purpose

The Family and Medical Leave Act is a federal law that allows eligible individuals or family members with medical needs to take time off from work in order to receive medical care, to provide medical support to a family member or to provide care to a newborn child or adopted child.

Definitions

- A. **Serious Health Condition** - An illness, injury, impairment, or physical or mental condition that involves:
 1. **Inpatient care**: Any period of incapacity or treatment in connection with or consequent to inpatient

care in a hospital, hospice or residential medical care facility;

2. **Continuing treatment by a health care provider:** Any period of incapacity of more than three consecutive calendar days, that also involves continuing treatment as follows:
 - a. Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g. physical therapist) under orders of, or on referral by, a health care provider; or
 - b. Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under supervision of a health care provider. A regimen of continuing treatment includes, for example, a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. It does not include the taking of over-the-counter medications or other similar activities that can be initiated without a visit to a health care provider.
3. **Any period of incapacity due to pregnancy.**
4. **Treatment for a chronic health condition:** 1) requires periodic visits for period of incapacity (asthma, diabetes, epilepsy, etc.).
5. **A period of incapacity:** Permanent or long-term incapacity due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include: Alzheimer's, severe stroke or the terminal stages of a disease.
6. **Multiple treatments for non-chronic conditions:** Any period of absence to receive multiple treatments (including any period of recovery) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition such as cancer, severe arthritis, or kidney disease that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.
7. **Continuing supervision:** Supervision that is not necessarily active treatment by a health care provider due to a serious long-term or chronic condition or disability which cannot be cured.

FMLA only allows leave for substance abuse in order to undergo treatment by a health care provider and specifically excludes employee absence because of the use of the substance. Stress qualifies as a serious health condition only if it rises to the level of a mental illness or results in a physical illness.

- A. **Period of Incapacity** - A period of time when an employee or family member is unable to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefore, or recovery there from.
- B. **Treatment** - For purposes of FMLA, includes examinations to determine if a serious health condition exists and evaluations of the condition, but does not include routine physical examinations, eye examinations, or dental examinations.
- C. **Health Care Provider** - A doctor of medicine or osteopathy who is authorized to

practice medicine or surgery by the State in which the doctor practices; or any other person determined by the United States Department of Labor to be capable of providing health care services. Included in the second part of that definition are podiatrists, dentists, clinical psychologists, clinical social workers, optometrists and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated to exist by x-ray), nurse practitioners and nurse- midwives and Christian Science Practitioners.

- D. **Spouse** - Determined by applicable state law. It is clear from the legislative history that same-sex partners that are married and unmarried domestic partners do not qualify for family medical leave to care for their partner.
- E. **Parent** - The biological parent of an employee, or an individual who stands or who stood in loco parentis to an employee, when the employee was a son or daughter. It does not include parents-in-law.
- F. **Son or Daughter** - A biological, adopted, foster child, stepchild, legal ward or a child of a person standing in loco parentis who is:
 - 1. Under eighteen (18) years of age or
 - 2. Eighteen (18) years of age or older and incapable of self-care because of mental or physical disability.
- G. **Group Health Plan** -For purposes of FMLA, this includes an insurance program providing health coverage under which employees purchase individual policies from insurers provided that:
 - 1. No contributions are made by the employer.
 - 2. Participation in the program is completely voluntary for employees.
 - 3. The sole functions of the employer with respect to the program are, without endorsing the program, to permit the insurer to publicize the program to employees, to collect premiums through payroll deductions and to remit them to the insurer.
 - 4. The employer receives no consideration in the form of cash or otherwise in connection with the program, other than reasonable compensation, excluding any profit, for administrative services actually rendered in connection with payroll deduction.
 - 5. The premium charged with respect to such coverage does not increase in the event the employment relationship terminates.

The same group health plan benefits provided to the employee prior to taking FMLA leave must be maintained during the FMLA leave. Therefore, if family member coverage is provided to an employee, family member coverage must be maintained during the FMLA leave. Similarly, benefit coverage during FMLA leave for medical care, surgical care, hospital care, dental care, eye care, mental health counseling, substance abuse treatment, etc. must be maintained during leave if provided in an employer's group health plan, including a supplement to a group health plan whether or not provided through a flexible spending account or other component of a cafeteria plan.

Specific Provisions

Entitlements under the Family and Medical Leave Act

A. The Family and Medical Leave Act of 1993 (FMLA), codified at 29 CFR § 825 entitles "eligible" employees to a total of twelve (12) workweeks of leave during any 12-month period for one of the following reasons:

1. The birth of a son or daughter and to care for the newborn child;
2. The placement with the employee of a son or daughter for adoption or foster care;
3. The care of the employee's spouse, son, daughter or parent with a serious health condition; and
4. A serious health condition that makes the employee unable to perform the functions of the employee's duties.

The 12-month period used by the state for determining eligibility is the calendar year. In the case of birth or adoption, eligibility for FMLA leave shall expire at the end of the 12-month period beginning on the date of a child's birth or placement. However, leave used for this purpose shall also be calculated on a calendar year basis.

B. The National Defense Authorization Act of 2008 amended the Family Medical Leave Act to provide eligible employees leave rights related to military service. The new leave entitlements are:

1. **Qualifying Exigency Leave** - Eligible employees are entitled to up to 12 weeks of leave in a calendar year because of "any qualifying exigency" arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty, or has been notified of an impending call to active duty status, in support of a contingency operation. The qualifying exigency's for which employees can use FMLA leave are:

- a) Short-notice deployment
- b) Military events and related activities
- c) Childcare and school activities
- d) Financial and legal arrangements
- e) Counseling
- f) Rest and recuperation
- g) Post-deployment activities
- h) Additional activities not encompassed in the other categories, but agreed to by the employer and employee

2. **Military Caregiver Leave** - Eligible employees who are the spouse, parent, child, or next of kin of a service member who incurred a serious injury or illness on active duty in the Armed Forces may take up to 26 weeks of leave in a calendar year to care for the injured service member. Military Caregiver Leave is used in combination with regular FMLA leave.

Designation of Family and Medical Leave

A. FMLA leave is without pay. However, if an eligible employee has accumulated, unused sick or annual leave, the employee is required to substitute such paid leave, including any paid shared leave and catastrophic leave benefits, for any FMLA leave taken during the 12-week period, with the exception that an employee taking maternity leave may elect to not substitute accrued, unused sick and annual leave while on FMLA leave. Paid leave to handle personal and family medical needs is currently available under existing sick, annual, shared and catastrophic leave policies.

If ADE has knowledge that an employee's requested leave period is covered by FMLA, it is the responsibility of ADE to notify the employee that they have been placed on FMLA leave.

ADE must determine whether leave will be counted within two business days of the time the employee gives notice of the need for leave, or if the employer does not initially have sufficient information to make a determination, at the point this information become available. If the employer learns that the leave is for an FMLA purpose after leave has begun or within two days of the employee's return to work, the entire or some portion of the leave period may be retroactively counted as FMLA. An employee desiring to have a leave period designated as FMLA and obtain FMLA protections for the absence must notify the employer within two business days of returning to work.

B. FMLA may be taken "intermittently or on a reduced leave schedule" under certain circumstances.

1. Leave may be taken on an intermittent or a reduced leave (part-time) schedule so long as this does not result in a reduction in the total amount of leave to which the employee is entitled. Only the amount of leave taken may be counted toward the 12 weeks of leave to which an employee is entitled. For example, if an employee who normally works five days a week takes one day, the employee would use 1/5 of a week of FMLA Leave.
2. Leave may be taken intermittently when medically necessary. If an employee requests intermittent leave that is foreseeable based on planned medical treatment, the employer may require such employee to transfer temporarily to an available alternative position with equivalent pay and benefits but which better accommodates recurring periods of leave.
3. When leave is taken after the birth or placement of a child for adoption or foster care, an employee may take leave intermittently or on a reduced leave schedule only if the employer agrees. Such a schedule reduction might occur where an employee, with the employer's agreement, works part-time after the birth of a child, or takes leave in several segments. The employer's agreement is not required for leave during which the mother has a serious health condition in connection with the birth of her child or if the newborn child has a serious health condition.
4. An expectant mother may take FMLA leave before the birth of the child for prenatal care or if her condition makes her unable to work.
5. An employee may request leave before the actual placement or adoption of a child if an absence from work is required for the placement for adoption or foster care to proceed. For example, the employee may be required to attend counseling sessions, appear in court, consult with his or her attorney or doctor(s) representing the birth parent, or submit to a

physical examination.

6. An employee may request intermittent or reduced leave schedule to care for a family member in situations where the family member's condition itself is intermittent or where the employee may be needed to share care responsibilities with another party or to make arrangements for changes in care, such as transfer to a nursing home.
7. Intermittent leave may be taken for a serious health condition which requires treatment by a health care provider periodically, rather than for one continuous period of time.
8. Intermittent or reduced schedule leave may be taken for absences where the employee or family member is incapacitated or unable to perform the essential functions of the position because of a chronic serious health condition even if he or she does not receive treatment by a health care provider.

Eligibility

- A. To be eligible for leave under this policy an employee must have been employed by the state for at least twelve (12) months and must have worked at least 1250 hours during the twelve month period preceding the commencement of the leave.
- B. Spouses who are both employed by the state are entitled to a total of twelve weeks of leave (rather than twelve weeks each) for the birth or adoption of a child or for care of a sick parent. However, each spouse would be entitled to twelve (12) weeks for their own serious health condition or the care of a child or spouse. Each employee is entitled to FMLA for the care of his/her parent only. Nevertheless, the husband and wife are limited to a combined 12 weeks for this purpose regardless of which parent or the number of parents involved.
- C. Certification: A request for leave for an employee's own serious health condition or to care for seriously ill child, spouse or parent must be supported by a certificate issued by a health care provider. The certificate must contain the following information:
 1. The date on which the serious health condition commenced.
 2. The probable duration of the condition.
 3. The appropriate medical facts within the knowledge of the health care provider regarding the condition.
 4. If the leave is to care for a family member, the certificate must contain a statement that the eligible employee is needed to care for the son, daughter, spouse or parent and an estimate of the amount of time required.
 5. If the leave is due to the employee's illness, a statement that the employee is unable to perform the functions of the position must be included.

If an employee submits a complete certification signed by a health care provider, ADE may not request additional information from the employee's health care provider. However, a healthcare provider may

contact the employee's health care provider, with the employee's permission, for purposes of clarification and authenticity of the medical certificate.

If there is reason to doubt the validity of a medical certification, ADE may require a second opinion from a health care provider designated or approved by ADE so long as that provider is not employed by the state on a regular basis. If that opinion differs, the opinion of a third health care provider jointly approved by ADE and employee may be solicited. That opinion shall be final and binding. The opinions of both the second and third health care providers shall be obtained at ADE expense.

The employer and the employee must each act in good faith to attempt to reach agreement on whom to select for the third health care provider. If the employer does not attempt in "good faith" to reach agreement, the employer will be bound by the first certification. If the employee does not attempt in "good faith" to reach agreement, the employee will be bound by the second certification.

- D. The employee shall provide ADE with a completed Certification of Physician or Practitioner form thirty (30) days prior to the date leave begins and make efforts to schedule leave so as not to disrupt ADE operations when the necessity for leave is foreseeable such as for the birth or adoption of a child, or planned medical treatment. If circumstances require that leave begin in less than 30 days, the employee shall provide such notice as is practical. In cases of illness, the employee will be required to report periodically on his or her status and intention to return to work.
- E. The Commissioner of Education may require that the employee obtain subsequent re- certification on a reasonable basis, but not more often than thirty (30) days.
- F. Medical information as a result of the serious health condition is considered confidential.

Employment and Benefits Protection

Upon return from Family and Medical Leave an employee shall be entitled to be restored to (a) the position formerly occupied or (b) an equivalent employment benefits, pay and other terms and conditions of employment.

Apart from the paid leave actually used during the Family or Medical Leave period, the taking of leave shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced. However, no seniority or employment benefits shall be accrued during the period of leave. The employee is not entitled to any right, benefit, or position of employment other than any right, benefit or position to which the employee would have been entitled had the employee not taken leave.

ADE shall maintain benefits coverage for the employee under its group health plan at the same level and under the conditions coverage would have been provided if the employee had continued in employment. ADE shall continue to pay the "employer matching" portion of the health insurance premium and the employee will pay the employee's portion if such was the arrangement prior to leave. If ADE paid the full premium it must continue to do so.

An employee may choose not to retain health coverage during leave. However, when the employee returns from leave, the employee is entitled to be reinstated on the same terms as prior to taking the leave, without any qualifying period, physical examination, exclusion of preexisting conditions, etc.

ADE's obligation to maintain health insurance coverage ceases under FMLA if an employee's premium payment is more than 30 days late. Written notice to the employee that the payment has not been received must be mailed at least 15 days before coverage is to cease.

ADE may recover any payments made by ADE to cover the employee's share of the premium once the employee returns to work. An employer may recover its share of health plan premiums paid during unpaid FMLA if the employee fails to return to work unless the failure to return to work is due to a serious health condition or other circumstances beyond an employee's control. If an employer has maintained other benefits such as life or disability insurance in order to meet its responsibilities to provide equivalent benefits to the employee upon return from FMLA leave, the employer is entitled to recover the costs incurred for paying the premium whether or not the employee returns to work

The Effect of Other Laws and Employer Practices on FMLA Employee Rights

A. State Law

Nothing in FMLA supersedes any provision of state law that provides greater family or medical leave rights than those provided by FMLA. For example, State of Arkansas employees who take maternity leave have the option to reserve annual and sick leave balances when on FMLA leave. Even though ADE would normally require employees to use their leave balances during FMLA leave, state law, with regard to maternity leave, extends certain exceptions.

B. Americans with Disabilities Act (ADA)

ADA's "disability" and FMLA "serious health condition" are different concepts and must be analyzed separately. FMLA entitles eligible employees to 12 weeks of leave in any 12-month period, whereas the ADA allows an indeterminate amount of leave, barring undue hardship, as a reasonable accommodation. FMLA requires employers to maintain employees' group health plan coverage during FMLA leave on the same conditions as coverage would have been provided if the employee had been continuously employed during the leave period, whereas ADA does not require maintenance of health insurance unless other employees receive health insurance during leave under the same circumstances.

In cases where the two laws interact, i.e. the employee is eligible under both, the employer should provide the greater right to the employee. A disabled employee may be entitled to continuous, reduced schedule, or intermittent leave as "reasonable accommodation" and that leave may also be counted as FMLA. Since FMLA requires insurance coverage the disabled employee would receive health insurance during the 12 week FMLA eligibility period even though that is not an ADA requirement.

FMLA requires reinstatement to the same or equivalent position. If the employee were unable to perform the essential functions of that equivalent position even with reasonable accommodation, because of a disability, the ADA may require the employer to make a reasonable accommodation at that time by allowing the employee to work part-time or by reassigning the employee to a vacant position, barring undue hardship.

C. Workers' Compensation

Workers' Compensation absence and FMLA leave may run concurrently (subject to proper notice and designation by the employer). Under Workers' Compensation ADE may offer a medically certified employee a "light duty" position. Under FMLA the employee is permitted, but not required, to accept the position.

Thus it is possible that the worker will no longer qualify for Workers' Compensation, but is still entitled to FMLA.

D. Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA)

An employer's obligation under FMLA ceases and a COBRA qualifying event may occur when and if:

- the employment relationship would have terminated if the employee had not taken FMLA (i.e. his/her position eliminated due to Reduction in Force and no transfer is available)
- an employee informs the employer of his or her intent not to return from leave (which may be before the leave starts), or the employee fails to return from leave after exhausting his or her FMLA entitlement.

E. Employee Retirement Security Act (ERISA)

There is no requirement that unpaid FMLA leave be counted as additional service for eligibility, vesting, or benefit accrual purposes. However, the final regulations clarify that if a plan requires an employee to be employed on a specific date in order to be credited with a year of service for participation, vesting, or contribution purposes, an employee on FMLA leave is deemed to have been employed on that date. Previously, employees were required to return to work in order to receive the year of service.

6.6 Policy on Holidays Reference: OPM Policy 50.08

Full-time employees receive one (1) paid day off for each full day of holiday time. Holiday benefits for part-time employees will be pro-rated in accordance with the hours regularly worked. Temporary employees are ineligible for holiday leave benefits.

Employees shall be granted time off to observe the following paid legal holidays:

	HOLIDAYS	OBSERVED
1	New Year's Day	January 1
2	Dr. Martin Luther King, Jr., or Robert E. Lee	The third Monday in January
3	Presidents' Day/ Daisy Gaston Bates Day	The third Monday in February
4	Memorial Day	The last Monday in May
5	Independence Day	July 4
6	Labor Day	The first Monday in September
7	Veterans Day	November 11
8	Thanksgiving Day	The fourth Thursday in November
9	Christmas Eve	December 24
10	Christmas Day	December 25
11	Employee's Birthday	The employee is granted one holiday annually to observe his/her birthday

Employees Birthday: An employee is granted one day of leave annually to celebrate his/her birthday.

Employees who work less than full-time may take the leave at a rate proportionately equal to their time worked.

The dates that holidays are to be observed are announced in advance by the Secretary of State's office. These notices should be posted prominently.

Eligibility for Holiday Pay and/or Equivalent Time

All "regular salaried and extra help" employees are eligible to receive holiday pay if they are in pay status on at least fifteen (15) minutes on their last scheduled work day before the holiday and at least fifteen (15) minutes on the first scheduled work day after the holiday. The minimum holiday leave amount an employee can use is fifteen (15) minutes. No smaller amount shall be authorized or used. An employee on leave of absence without pay is not in pay status and is not eligible to receive holiday pay.

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Holiday During Leave

When a holiday occurs while an employee is on annual leave or sick leave, that day will be charged as a holiday and will not be charged against any of the employee's annual or sick leave.

Holiday During Day Off

If a holiday falls on an employee's regularly scheduled day off, the employee will be given equivalent time off. The following provisions apply to employees who cannot take holidays as scheduled:

- Employees must work on holidays when the needs of ADE require it. The Commissioner of Education will determine the need.
- Days off in lieu of holidays worked may be taken at a time approved by the employee's supervisor. (Such time off is to be taken as soon as it is practical.)
- Employees who work less than full-time may take the holiday at a rate proportionately equal to their time worked. For example, if an employee works half- time, a holiday would be granted equivalent to four (4) hours.

Holiday During Unpaid Leave

An employee who is on an authorized unpaid leave of absence shall not be paid for a holiday unless the employee works on the employee's scheduled work day, the day before and the day after.

Holiday Falling on a Weekend

Holidays which occur on a Saturday will be observed on the preceding Friday. Holidays which occur on a Sunday will be observed on the following Monday.

Governor Proclamation: The Governor by Executive Proclamation may proclaim additional days when State offices shall be closed in observance of special events, or for other reasons at the Governor's discretion.

State offices located in Pulaski County shall remain open when a legal holiday occurs during a general or special session of the legislature, with the exception of Martin Luther King, Jr. Day. These offices shall maintain the minimum number of employees required to conduct State business. However, these offices may be permitted to close by Resolution of the General Assembly.

6.7 Inclement Weather Reference: ADE Policy

The ADE complies with the Governor's Policy Directive #7 (GPD #7), Inclement Weather Policy. Each unit supervisor is responsible for designating essential personnel within their office in accordance with Section 3 of GPD #7.

On days the State's Inclement Weather Policy is in effect and the ADE is closed, only employees designated essential by their supervisors are required to report to work. Consequently, employees will be treated as if they had been at work. The Commissioner or designee may adjust work schedules allowing time-off for those employees who did report to work.

If the State's Inclement Weather Policy is in effect but the ADE is not closed, all employees are required to report to their workstations by 10:00 a.m. Employees who report to work by 10:00 a.m. will not be charged leave. Any employee reporting to their workstation after 10:00 a.m. must submit annual leave for the time involved in their tardiness. For example, if an employee's work schedule is from 8:00 a.m. – 4:30 p.m. and the employee reported to work at 10:15 a.m., the employee must file a leave form for 2.25 hours of annual leave. Also, any employee not coming to work will be charged a full day's, eight (8) hours, of leave.

If the State's Inclement Weather Policy is not in effect and each agency has been granted the discretion for early dismissal to ensure the safety of all state personnel, all ADE employees will be notified by email when the ADE will close. Any staff member who feels they need to leave earlier due to safety concerns is to consult with their supervisor and prepare the proper leave forms.

If the Inclement Weather policy is not declared and the employee request is granted leave from his/her supervisor during a period of inclement weather, the employee may use earned annual, holiday or compensatory leave.

Employees have an additional option, during periods of inclement weather of using Leave Without Pay(LWOP) and maintaining their earned annual or compensatory leave to be used at a later date.

Similar to the explanation on late arrival on in the ADE Employee Handbook, any ADE employee, who leaves work prior to the announced dismissal time, must submit annual leave for the full time they were not at work. For example, if an employee's work schedule is from 8:00 a.m. – 4:30 p.m. and the employee left work at 2:00 p.m., the employee must file a leave form for 2.50 hours of annual leave, regardless of if ADE closed early. Employees who remain at work until announced dismissal time will be credited for eight (8) hours or a full day of work.

In any case, non-exempt employees do not need to submit leave forms for inclement weather if the policy was followed; however they will be required to reflect INCL (Inclement Weather) under the OTHER category on their time sheet for appropriate time for the date of the inclement weather.

Exempt employees do not need to submit leave forms for inclement weather.

No action is necessary for those employees who were not scheduled to be at work due to prior leave approval. Employees cannot get credit for an Inclement Weather Day, if previously scheduled leave for the same day. Employees who were not scheduled to be at work due to prior leave approval will be charged leave as previously approved by their supervisor.

For work areas outside of greater Little Rock:

For ADE employees whose official workstation is outside of the greater Little Rock area, the ADE's aforementioned Inclement Weather Policy will be followed.

If the co-op or school district, which is designated as the employee's official workstation, is closed on other days or times in addition to the dates and times designated by the Governor for the greater Little Rock areas these employees will not be charged leave and non-exempt employees must indicate INCL on their time sheet under the OTHER category. All such employees, exempt or non-exempt, are required to file a leave form, attaching supporting documentation that the co-op or school district was closed due to inclement weather. Each Assistant Commissioner (AC) is responsible for approving the inclement weather leave submitted by these employees once the AC has determined that the official workstation for these employees in their division was indeed closed. If the co-op or school district designated as an official workstation for an ADE employee was not closed the employee must take annual leave for hours not at work on these days.

6.8 Leave of Absence for Military and Public Health Training: Reference OPM Policy 50.10

Purpose

Arkansas law allows for employees of state agencies and institutions of higher education to participate in a military training program made available by the National Guard or any of the reserve branches of the armed forces. In addition, all state employees who are members of the Inactive Reserve Corps of the United States Public Health Service are allowed to take a leave of absence for the purpose of participating in the civil defense and public health training programs made available by the United States Public Health Service.

Specific Provisions

Employees participating in military training programs or the US Public Health Service training program shall be entitled to a leave of absence for a period of fifteen (15) days plus necessary travel time for annual training requirements or other duties performed in an official duty status in any one (1) calendar year. To the extent this leave is not used in a calendar year, it will accumulate for use in the succeeding calendar year until it totals fifteen (15) days at the beginning of the calendar year.

Whenever an employee of a political subdivision is granted military leave for a period of fifteen (15) days per calendar year or fiscal year, the military leave will accumulate for use in succeeding calendar years or fiscal years until it totals fifteen (15) days at the beginning of the calendar year or fiscal year, for a maximum number of military leave days available in any one (1) calendar year or fiscal year to be thirty (30) days.

Employees called to duty in emergency situations by the Governor or President shall be granted leave with pay not to exceed thirty (30) working days, after which leave without pay will be granted. An employee who is drafted or called to active duty in the armed forces of the United States or who volunteers for military service shall be placed on extended leave without pay and upon application within ninety (90) days after the effective date of his or her release from active duty shall be reinstated to the position vacated or an equivalent position at no loss of seniority or any of the other benefits and privileges of employment.

An employee who requests military leave shall furnish a copy of his or her orders for his or her personnel file.

When an employee is granted a leave of absence under this policy, he or she shall be entitled to his or her regular salary during the time he or she is away from his or her duties during such leave of absence. This leave of absence shall be in addition to the regular annual leave accrued by the employee.

During a leave of absence, the employee shall be entitled to preserve all seniority rights, efficiency or performance ratings, promotional status, retirement privileges, life and disability insurance benefits and any other rights, privileges and benefits to which they have become entitled.

The period of military service shall, for purposes of computations to determine whether such person may be entitled to retirement benefits, be deemed continuous service and the employee shall not be required to make contributions to any retirement fund. The state agency, institution of higher education or political subdivision shall continue to contribute its portion of any life or disability insurance premiums during the leave of absence on behalf of the employee, if requested, so that continuous coverage may be maintained.

All employees of the state, any city of the first class, city of the second class, incorporated town, or any county who are members of the United States Air Force Auxiliary Civil Air Patrol or the United States Coast Guard Auxiliary and desire to take a leave of absence for the purpose of participating in training programs for the Civil Air Patrol or in emergency and rescue services shall be entitled to a leave of absence with pay for a period of fifteen (15) days for that purpose during any one (1) calendar year, if the leave of absence is at the request of the employee's wing commander, the wing commander's designated representative, or Division 15 Captain.

6.9 Leave of Absence Without Pay (LWOP) Reference: OPM Policy 50.11

ADE encourages the accumulation of annual, sick or holiday leave for all employees. Consistent with that philosophy, ADE discourages the use of LWOP. Repeated use of LWOP will not be approved and may subject the employee to disciplinary action up to and including termination. An employee in a regular salary position may apply in writing to the appropriate Assistant Commissioner, with final approval by the Commissioner of Education or designee, to obtain LWOP for a period not to exceed six months. Some examples of emergency-type events would be a critical illness or need to seek immediate medical attention. LWOP will not be granted for casual or optional events such as vacations.

LWOP will not be granted until all of the employee's compensatory time, if any and applicable accumulated annual or sick leave have been exhausted. Exception, in the case of maternity leave, the employee may elect to take LWOP without exhausting accumulated annual and sick leave. In the case of disciplinary LWOP, ADE may place an employee in a LWOP status in accordance with our policy on discipline.

If an employee uses ten (10) or more days of LWOP in any month, the employee will not earn annual and sick leave for that month. If an employee is on LWOP when a legal holiday is observed the employee will not receive pay for the holiday. LWOP status may affect the State's portion of the premium in the State's group health insurance. There are a few exceptions to this rule if on Military, Worker's Compensation or Family Medical Leave.

6.10 Leave for Bone Marrow or Organ Donation Leave Reference: OPM 50.12

Purpose

All state employees are entitled to leave with pay for up to thirty (30) days per calendar year in order to serve as a human organ donor. In addition, all state employees are entitled to leave with pay for up to seven (7) days per calendar year to serve as a bone marrow donor.

Definitions

Bone marrow donor: a person from whose body bone marrow is taken to be transferred to the body of another person.

Organ: a human organ that is capable of being transferred from the body of a person to the body of another person, including eyes.

Organ donor: a person from whose body an organ is taken to be transferred to the body of another person.

State agency: an agency, bureau, board, or commission of any branch of state government and all state-supported institutions of higher education.

State employee: a full-time employee of the State of Arkansas or any branch, department, board, bureau, commission, or state-supported institution of higher education.

Specific Provisions

In order to qualify for organ donor or bone marrow donor leave, employees must request the leave in writing and provide the agency written verification by the physician performing the transplant that the employee will serve as a human organ or bone marrow donor. Following the transplantation, the employee shall provide the agency written verification by the same physician that the employee did serve as a human organ or bone marrow donor.

A state employee may use this leave without loss or reduction in pay, leave, or credit for time of service.

6.11 Leave for Participating in Children's Educational Activities (CEAL) OPM: Reference 50.13

This policy establishes the CEAL program as established by Ark Code Ann. § 21-4-326. All full-time state employees shall be entitled to eight (8) total hours of leave during any one calendar year for the purpose of engaging in and traveling to and from the educational activities or interscholastic activities of his or her child(ren).

Definitions

Child: A person enrolled in prekindergarten through grade 12, including a home-schooled student, who is of the following relation to a state employee:

1. Natural child
2. Adopted child

3. Stepchild
4. Foster child
5. Grandchild
6. Ward of the state employee by virtue of the state employee's having been appointed the child's legal guardian or custodian
7. Any other legal capacity in which the employee is acting as a parent. (Refer to Ark. Code Ann. § 21-4-216 if more specific details are needed.).

Child includes a person who meets the criteria above but is over eighteen (18) years of age and:

1. Has a developmental disability; or
2. Is declared legally incompetent.

Developmental Disability: A disability of a person that:

- (A) (1) Is attributable to mental retardation, cerebral palsy, spina bifida, down syndrome, epilepsy, or autism;
- (A) (2) Is attributable to any other condition of a person found to be closely related to mental retardation because the condition results in an impairment of general intellectual functioning or adaptive behavior similar to that of a person with mental retardation or requires treatment and services similar to that required for a person with mental retardation or requires treatment and services similar to that of required for a person with mental retardation; or (3) Is attributable to dyslexia resulting from a disability described in (A)(1) or (A)(2);
- (B) Originates before the person attains the age of twenty-two (22) years;
- (C) Has continued or can be expected to continue indefinitely; and
- (D) Constitutes a substantial handicap to the person's ability to function without appropriate support services, including, but not limited to, planned recreational activities, medical services such as physical therapy and speech therapy, and possibilities for sheltered employment or job training.

Educational Activity: Any school-sponsored activity including without limitations:

1. Attending a parent-teacher conference;
2. Participating in school-sponsored tutoring of the child;
3. Participating in a volunteer program sponsored by the school in which the child is enrolled;
4. Attending a field trip with the child;
5. Attending a school-sponsored program or ceremony in which the child is participating;
6. Attending a graduation or homecoming ceremony in which the child is participating;
7. Attending an awards or scholarship presentation in which the child is participating;
8. Attending a parents' or grandparents' breakfast in which the child is participating;
9. Attending a classroom party in which the child is participating;
10. Attending a school committee meeting of the school in which the child is enrolled;
11. Attending an academic competition in which the child is participating;
12. Attending an athletic, music, or theater program in which the child is enrolled; and
13. Engaging in any of the activities listed above that are connected with a prekindergarten program.

Home-schooled student: A student legally enrolled in an Arkansas home school.

Interscholastic activity: An activity between schools subject to regulations of the Arkansas Activities Association that is outside the regular curriculum of a school district, including without limitation an athletic activity, a fine arts program, or a special interest club or group; and taught by an individual with a minimum of a high school diploma.

Prekindergarten: means an educational and child development program that is designed to prepare children who are at least three (3) years of age for an academic kindergarten program.

Resident school: The school to which the student would be assigned by the resident school district in which the home-schooled student's parent resides.

State Agency: An agency, bureau, board or commission of any branch of state government and all state-supported institutions of higher education,

State Employee: A full-time employee of the State of Arkansas or any branch, department, board, bureau, commission, or state-supported institution of higher education.

Specific Provisions

Employees must request the use of Children's Educational Activities Leave in advance and in accordance with their section/unit guidelines for requesting time off, including documentation as to the type of educational activity in which the employee is participating and the employee's relationship (parent or grandparent) with the child.

Time must be requested in increments of at least one-quarter (.25) hour. Employees must also submit a CEAL Justification Form with their leave form. The CEAL Justification Form is located at Forms.

A home-schooled student shall not participate in interscholastic activities at a public school other than the student's resident school.

Children's Educational Activities Leave that is unused may not be carried over to the next year. Children's Educational Activities Leave is not compensable to the state employee at the time of retirement.

perRevised July 22, 2015

<https://adeemployees.arkansas.gov/Pages/csc/FormsPersonnel.aspx>

6.12 Maternity Leave Reference: OPM Policy 50.14

Maternity leave is to be treated as any other leave for sickness or disability. Accumulated sick leave and annual leave, if requested by the employee, shall be granted for maternity use, after which leave without pay (LWOP) may be used. An employee may elect to take LWOP and not exhaust accumulated annual and sick leave. The same procedures used to request sick leave apply to maternity leave requests. (Reference LWOP and FML sections of this Handbook.)

While on maternity leave, the employee will continue to earn annual and sick leave unless on LWOP. Any employee on leave of absence without pay shall not accumulate leave time, participate in ADE group insurance programs to which the state contributes, or receive pay for any legal holidays. An employee must work a minimum of 10 hours per pay period to ensure the State's matching portion is paid.

Employees in LWOP status may continue to participate in the Plan, but must pay the entire

health insurance premium and basic life insurance cost, including the State contribution, directly to EBD.

For more information regarding the FMLA as it applies to state employees, an overview document is available at <https://adeemployees.arkansas.gov/Default.aspx?ReturnUrl=%2fPages%2fams%2f> for requirements which may impact maternity leave. (Reference Leave of Absence Without Pay and FML sections of this Handbook.)

6.13 Military Leave Reference: OPM Policy 50.15

Regular full-time ADE employees who are members of the National Guard or any of the reserve branches of the U.S. Armed Forces will be granted leave at the rate of fifteen (15) working days (120 hours) per calendar year, plus necessary travel time for annual military training purposes. Up to fifteen (15) unused military leave days may be carried over to the succeeding year for a maximum of thirty (30) military leave days for that calendar year. Military leave for annual training or other official duties must be granted without loss of pay in addition to holiday, sick and annual leave to attend these scheduled drills or training.

Employees who need additional military leave for training purposes can use their accrued leave (such as annual, holiday or comp, if any) until such leave is exhausted and then military LWOP will be used.

The employee must provide written or oral notification prior to going on duty, unless precluded by military necessity. Employees are encouraged to notify their employer of any "window" of anticipated military activity including scheduled drills and annual training.

Active Duty for Military Services: A regular, full-time employee who is drafted or called to active duty in the Armed Forces of the United States or who volunteers for military service shall be placed on extended military LWOP; all unused sick leave at the time of military leave will be reinstated at the time the employee returns. All accrued, unused annual leave at the time of military leave will be reinstated at the time the employee returns to state employment unless the employee requested and received a lump-sum payment for the accrued, unused annual leave when placed on the extended military leave.

When the employee is released from active duty and upon application within ninety (90) days after the effective day of his or her release, he or she shall be reinstated to the position vacated or an equivalent position for which he or she is qualified in the same agency or its successor in interest. The employee shall not lose any seniority rights or any of the other benefits and privileges of employment.

Employees performing active military service for fewer than thirty-one (31) days must report for reemployment on the first regularly scheduled workday within eight (8) hours after discharge from military service. Those serving more than thirty (30) but less than one hundred and eighty-one (181) days must report within fourteen (14) days after discharge. Those serving more than one hundred and eighty (180) days must report for reemployment within ninety (90) days after discharge from military service.

Former employees returning to State service after military service, but who extended their enlistment or re-enlisted for additional military service beyond the initial period for more than a period of four (4) years will lose all re-instatement rights and will be considered a rehire. Military service time may be extended beyond the five (5) year period for reasons stated in 38 US Code Section 4312(c).

Called to Active Duty in Emergency Situation

Regular, full-time state agency and institution of higher education employees who are called to active duty in emergency situations (and in situations covered by 10 United States Code §12304) as declared by the Governor or President shall be granted leave with pay not to exceed thirty (30) working days per calendar year. Periods beyond the thirty (30) day limit may be charged to annual leave at the employee's option and if necessary, to leave without pay.

Emergency situations mean any case of invasion, disaster, insurrection, riot, breach of peace, or imminent danger; threats to the public health or security; or threats to the maintenance of law and order.

The reinstated employee will not lose any seniority rights with respect to leave accrual rates, salary increases, Reduction in Force policies, or other benefits and privileges of employment. The period of military service, for purposes of computations to determine whether such persons may be entitled to retirement benefits, should be deemed continuous service and the employee shall not be required to make any contributions to any state supported retirement fund. To receive service credit for retirement purposes, a copy of the employee's DD214 must be submitted to the appropriate retirement system. The retirement system will notify the appropriate agency to remit the employer's contributions to update the employee's account.

If an employee's active duty in emergency situations begins in one calendar year and ends in the next calendar year and the employee is subsequently redeployed due to an emergency situation, the employee is eligible for thirty (30) days paid leave in the new calendar year. For an employee to be eligible for emergency active military duty paid leave, the employee must be actively employed by the state and submit a copy of military orders for each emergency deployment.

Military leave for emergency active duty situations is granted in addition to annual military leave for training purposes and annual leave.

Active Duty for the Purpose of Specialized Training

In cases where an employee volunteers or is ordered to active duty for the purpose of special training, the employee will be placed on leave without pay for the period of training unless the employee elects to use his accrued annual leave. Leave without pay is given in addition to the paid leave for annual military training.

The employee retains eligibility rights including accumulated annual leave (unless the above option has been exercised) and any sick leave not used at the time the employee begins the training.

The employee does not accumulate annual or sick leave during a leave without pay period and the annual leave accrual rate will be calculated as though there had been no period of absence.

Attach a copy of military orders to each request for military leave and submit orders to Time and Leave and Human Resources units.

6.14 Sick Leave Reference: OPM Policy 50.16

Sick Leave Benefits

The ADE provides paid sick leave benefits to eligible employees for periods of temporary absence due to

illness or injuries. Eligible employees will accrue sick leave benefits at the rate of one day for every full month of service, twelve (12) days per year. Eligible employees may use sick leave benefits for an absence due to their own illness, injury or other medical treatment or that of an immediate family member. For the purposes of this Handbook, "immediate family" shall mean the father, mother, sister, brother, spouse, child, grandparent, grandchild, in-laws or any individual acting as parent or guardian of an employee.

Leave Forms

Employees are responsible for submitting accurate Employee Request for Leave forms for all leave, including sick leave. Application for unexpected sick leave is to be filed within two (2) days after the employee's return to work. Expected sick leave applications (Doctor's appointments, medical tests, etc.) are to be filed prior to leave. The minimum sick leave amount an employee can use is fifteen (15) minutes. No lesser amount of time shall be authorized or used.

Certification

After an employee misses five (5) consecutive days of work for sick leave, he or she will be required to submit an ADE Sick Leave Self-Certification Form to Human Resources. After submitting the Sick Leave Self-Certification Form, if Human Resources believe the employee's absence may be due to an FMLA-qualifying reason, the employee will be required to complete an FMLA Certificate of Healthcare Provider. An employee may submit an FMLA Certificate of Healthcare Provider instead of the ADE Sick Leave Self-Certification Form if the employee believes his or her absence qualifies for FMLA leave.

An employee shall submit either the ADE Sick Leave Self-Certification Form or the FMLA Certificate of Healthcare Provider in advance of taking leave for those instances when the employee knows that he or she will be on sick leave for five (5) or more consecutive days.

Employees who have a pattern of absences may be required to submit additional documentation. Such determination shall be made by the ADE Office of Human Resources (ADE HR) or by the employee's supervisor with approval from ADE HR.

An employee may apply for FMLA Leave regardless of the number of days missed when the employee believes his or her absence is due to an FMLA-qualifying reason. Please see the ADE FMLA policy for more details.

Reporting Unexpected Sick Leave

Employees who are unable to report to work due to illness or injury must notify their immediate supervisor or designee before the scheduled start of their workday, if possible, or as soon as possible after the start of their workday. If the absence extends beyond the period initially reported, additional notification is required to comply with this section.

If an employee fails to make proper notification for use of sick leave as provided herein, such absence can be charged to annual leave or leave without pay. The employee may also be subject to disciplinary action. Such determination shall be made at the Commissioner's/designee's discretion.

Accrual of Sick Leave Benefits

Unused sick leave benefits will be allowed to accumulate; however, only 120 days (960 hours) of sick leave

may be carried over at the end of each calendar year. All excess sick leave will be forfeited on January 1 of each year or may be donated to the ADE Catastrophic Leave Bank. Sick leave donated to the ADE Catastrophic Leave Bank cannot be returned to an employee to compute sick leave incentive at retirement. New employees may bring up to a maximum of 90 days (720 hours) of unused sick leave from school districts, educational cooperatives, state educational agencies, or two-year colleges.

Subject to the provisions of Ark. Code Ann. § 21-4-501, an employee may receive compensation for certain unused sick leave at their retirement from the Department. Questions regarding compensation for unused sick leave should be directed to the Human Resources Manager.

Sick Leave Incentive

Employees are not entitled to payment for accrued and unused sick leave when they terminate their employment except for instances of retirement or death in service. Maximum sick leave pay is \$7,500 upon retirement and the employee must have at least 400 hours or fifty (50) days of sick leave to be eligible for any payment.

Upon the retirement or death of the employee, his/her estate shall receive compensation for accumulated unused sick leave as follows:

- If the employee has accumulated at least fifty (50) days, but less than sixty (60) days of sick leave, the employee shall receive an amount equal to fifty (50) percent of the number of accrued sick leave days (rounded to the nearest day) times **fifty percent (50%) of the employee's daily salary**.
- If the employee has accumulated at least sixty (60) days, but less than seventy (70) days of sick leave, the employee shall receive an amount equal to sixty percent (60%) of the number of accrued sick leave days (rounded to the nearest day) times **sixty percent (60%) of the employee's daily salary**.
- If the employee has accumulated at least seventy (70) days, but less than eighty (80) days of sick leave, the employee shall receive an amount equal to seventy percent (70%) of the number of accrued sick leave days (rounded to the nearest day) times **seventy percent (70%) of the employee's daily salary**.
- If the employee has accumulated at least eighty (80) or more days of sick leave, the employee shall receive an amount equal to eighty percent (80%) of the number of accrued sick leave days (rounded to the nearest day) times **eighty percent (80%) of the employee's daily salary**.

For purposes of this section, the employee's daily salary shall be determined by dividing the annual salary by two hundred and sixty (260) days.

Upon retirement or death, if the balance of the employee's sick leave does not reach the criteria for a Sick Leave Incentive Payout, the employee or their beneficiary may donate their sick leave to the catastrophic leave bank. When an employee receives a payout for unused sick leave at retirement or death, hours used to calculate the maximum payout of \$7,500 cannot be donated to the catastrophic leave bank. Once the calculation of the number of accrued hours needed to receive a full payout of \$7,500 has been made, any remaining hours may be donated to the catastrophic leave bank.

In no event shall an employee or beneficiary receive an amount that exceeds seven thousand five hundred dollars (\$7,500) upon retirement, or death of an employee, due to the provisions of this Section.

If an employee receives compensation for unused sick leave at retirement and returns to state employment, the employee shall not be required to wait until the expiration of the number of days for which he or she received additional compensation before returning to state employment or to repay the amount of the compensation.

Compensation for accumulated unused sick leave shall not be used by the ATRS in the calculation of final average salary when calculating retirement rates.

For the purposes of calculating incentive pay for retirees, paid sick leave taken under the Family and Medical Leave Act of 1993 will be added to the retiring employee's final sick leave balance.

6.15 Transfer of Leave Reference: OPM Policy 50.17

Purpose

Arkansas law provides that employees transferring between state agencies or institutions of higher education are allowed to transfer their leave benefits when they move to another state agency or institution of higher education.

Specific Provisions

Employees transferring without a break in service, between state agencies and/or state- supported institutions of higher education, which are covered by the Uniform Attendance and Leave Act, shall retain all accumulated annual leave upon transfer to their new agency or institution of higher education.

If an employee separates from a state agency or institution of higher education and is paid for their annual leave upon separation, the employee is not allowed to return to state employment until he or she has exhausted the number of days for which they were awarded annual leave. If the employee has been separated from state government for 30 working days or less, they will have the option of purchasing their unexpired leave balance from the hiring state entity.

If an employee receives compensation for unused sick leave at retirement and returns to state employment, the employee shall not be required to wait until the expiration of the number of days for which he or she received additional compensation before returning to state employment or to repay the amount of the compensation.

When an employee is laid off because of budgetary reasons or curtailment of activities and he or she is reinstated within a period of six (6) months, accumulated sick leave may be restored to his or her credit.

When an officer or employee of a state office or agency excluded from the provisions of the Uniform Attendance and Leave Act leaves employment of the excluded office or agency and becomes employed by an agency or institution of higher education which is subject to the Uniform Attendance and Leave Act, the period of employment with the excluded office or agency shall be included as state employee service for the purpose of determining the rate at which the employee earns paid annual leave.

Upon return to state employment, the hiring state entity shall request a Proof of Prior Service from each agency or institution of higher education where the employee has previously worked. The employee's rate of annual leave accrual shall be determined by considering all past state employment.

6.16 Treatment of Military Service Disability Leave Reference: OPM 50.18

Purpose

All state agency and institution of higher education employees who have been rated by the United States Department of Veterans Affairs or its predecessor to have incurred a military service-connected disability and have been scheduled to be reexamined or treated for the disability shall be entitled to a leave of absence with pay.

Specific Provisions

The employee shall be entitled to his or her regular salary during the time the employee is away from his or her duties during the leave of absence. The leave with pay may not exceed six (6) days for the purpose specified in this law during any one (1) calendar year. The leave of absence shall be in addition to the regular annual leave and sick leave allowed to the employee. During the leave of absence allowed under this law, the employee shall be entitled to preserve:

- All seniority rights, efficiency or performance ratings, promotional status, retirement privileges and life and disability insurance benefits; and
- Any other rights, privileges and benefits to which he or she has become entitled.

For computation purposes to determine whether the employee may be entitled to retirement benefits, the period of the leave of absence shall be deemed continuous service. The state agency or institution shall continue to contribute its portion of any life or disability insurance premiums during the leave of absences on behalf of the employee, if requested, so that continuous coverage may be maintained.

6.17 Shared Leave Reference: OPM Policy 50.20

Ark. Code Ann. § 21-4-203; § 21-4-217 allows an employee to donate sick and/or vacation leave to another qualified employee who is out of leave (or nearly out of leave) and experiencing (or caring for a family member who is experiencing) a serious, extreme, or life threatening illness or injury. Arkansas law establishes shared leave to be administered by the Office of Personnel Management (OPM) of the Division of Finance and Administration (DFA).

Note: Shared Leave is administered intra-agency and implementation is at the discretion of state agency directors/institution of higher education heads. If a state agency wishes to opt-out of shared leave, they must notify OPM in writing by February 1 of each year.

Definitions

Shared Leave: The donation of an employee's earned sick or annual leave to another employee who is employed by the same state employer, who

1. Is suffering from a severe illness;
2. Has an immediate family member who is severely ill; or
3. Has approved paternity leave or maternity leave after

- A. The birth of a biological child;
- B. The placement of an adoptive child in the adoptive home of the employee; or
- C. The placement of a foster child in the foster home of the employee for an appropriate transition period that is in the best interests of the foster child as determined by the Division of Children and Family Services of the Department of Human Services (DCFS-DHS).

Severe Illness: An acute onset medical condition of an employee or an employee's immediate family member:

- 1. Which is catastrophic in nature;
- 2. Which could not be anticipated;
- 3. That requires continuous in-patient or out-patient medical treatment; and
- 4. That requires the employee or employee's immediate family member to be absent from duty for a prolonged period of time.

Catastrophic Nature: Any unforeseen medical condition. Examples include, but are not limited to, a terminal illness, cancer, or surgery as a result of an unforeseen medical condition.

Immediate Family: An employee's father, mother, sister, brother, husband, wife, child, grandmother, grandfather, grandchild, in-laws, and an individual acting as a parent or guardian of an employee.

Employee: A person regularly appointed or employed in a position of state service by a state agency for which he or she is compensated on a full-time basis, excluding faculty.

Prolonged period of time: A continuous period of time (minimum of thirty (30) working days) whereby a medical condition prevents the employee from performing the employee's duties.

A. Recipient Requirements:

An employee is eligible to receive shared leave if the employee has:

- 1. Been continuously employed for more than one (1) year by ADE from the date of application;
 - 2. Cumulative earned sick and annual leave in excess of eighty (80) hours at the onset of the severe illness;
 - 3. Applied in writing for shared leave;
 - 4. Received written approval for shared leave from his or her employer; and,
 - 5. Not been disciplined for leave abuse by a state agency within two (2) years from the date of application.
- The 80-hour requirement may be waived for an otherwise eligible employee at the discretion of the Commissioner of Education.
 - No employee shall be approved for shared leave unless the employee is, or is reasonably expected to be, on leave without pay status as a result of a severe illness.
 - An employee who applies for shared leave shall provide his or her employer an acceptable medical certificate from a healthcare provider documenting the severe illness or the birth

of the employee's biological child that made the employee eligible for shared leave; a final decree of adoption issued by a court of competent jurisdiction approving the adoption of a child by an employee; or documentation provided by the DCFS-DHS approving the placement of a foster child in the foster home of the employee.

- Shared leave may be used on a full-time or intermittent basis; however, in no case shall the employee be granted shared leave beyond the date certified by a healthcare provider as the date when the employee is able to return to work.
- The combination of shared and catastrophic leave received by an employee may not exceed two thousand eighty (2,080) hours in a calendar year. Shared leave received by an employee may not exceed 2,080 hours per shared leave event.
- Shared leave may only be used in the calendar year the leave quotas and amounts were established in AASIS.
- Shared leave may be used on conjunction with Family Medical Leave.
- Any shared leave donated to an employee that is not used by the employee shall be converted to the ADE's catastrophic leave bank program.
- Leave that is accrued by an employee while on shared leave shall be donated to the ADE's catastrophic leave bank.
- Donations of shared leave shall be granted hour-for-hour and not dollar-for-dollar.
- OPM will not approve crossgrades/downgrades or pool position requests to accommodate a shared leave request.

B. Donor Requirements:

An employee is eligible to donate shared leave if the employee:

1. Is employed by the same employer as the employee receiving shared leave;
 2. Has cumulative earned sick and annual leave in excess of eighty (80) hours, prior to donation, and the donation will not cause the donating employee to have less than eighty (80) hours, except at termination or retirement; and,
 3. Has not been disciplined for leave abuse by a state agency within two (2) years from the date of application.
- The 80-hour requirement may be waived for an otherwise eligible employee at the discretion of the Commissioner of Education.
 - Once shared leave is approved, granted, and extracted from the donor's leave bank, it is irrevocable.

C. Approval:

Shared leave shall be approved in writing by the:

1. Commissioner of Education, and
2. Chief Fiscal Officer (CFO) of the State to determine the employer's funding availability.

If shared leave is granted to an employee, the employee shall use the shared leave after the employee has exhausted the following:

1. Earned sick leave;
2. Earned annual and holiday leave; and,
3. Earned compensatory leave.

When submitting shared leave requests to the CFO, the following forms are required:

1. Shared leave application;
2. 80-hour waiver letter (if applicable);
3. Dependent child certification;
4. Shared leave donation; and
5. Documentation substantiating severe illness—Physician's Certification; Adoption Decree, or DCFS-DHS Approval.

Prohibition of Coercion

An employee may not directly or indirectly intimidate, threaten or coerce, or attempt to intimidate, threaten or coerce, another employee for the purpose of interfering with that employee with respect to donating, receiving or using annual or sick leave. Any report of such described instances shall be reported in writing to the Commissioner of Education. All written reports of such described instances shall be investigated thoroughly and appropriate disciplinary action may be taken for any substantiated violation.

Revised July 22, 2015

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SECTION VII – COMPENSATION

7.1 Pay Periods

Employees of ADE are paid biweekly on Fridays. The annual compensation to be paid to employees shall be payable in equal biweekly installments over the calendar year.

Employees hired on or after August 12, 2005 are required to have direct deposit. The salary received on the first pay period is determined by the employee's grade level and when the employee began work in the pay period. Pay periods begin on Sunday and end on Saturday. Employees are paid on Friday of the week following the close of the pay period.

An employee should review his or her remuneration statements (check stubs) for errors. Remuneration statements can be accessed by the employee through the AASIS' website. Upon discovery of an error in the amount of pay, the employee should promptly bring the discrepancy to the attention of the payroll officer in the finance office. When underpayments are identified, they will be corrected in the next regular paycheck or as soon as possible. Overpayments will also be corrected in the next regular paycheck unless this presents a burden to the employee, in which case ADE and the employee will execute a repayment schedule.

7.2 Payroll Deductions

Deductions will be made from every employee's compensation as required by law. ADE also offers benefits beyond those required by law and eligible employees may voluntarily authorize deductions from their paychecks to cover the costs of participation in these programs.

7.3 Cost of Living Adjustments (COLA)

The Arkansas General Assembly may, from time to time, authorize pay increases that represent a COLA for all current employees excluding extra help. These increases are not performance- based.

7.4 Rehired Employees Reference: OPM Policy 20.02

An employee who has been terminated for more than thirty (30) working days and returns to state service will be eligible for his/her previous exit salary. If that salary falls below the entry level of the grade or classification, the salary will be adjusted to the entry level. Additionally, the salary cannot exceed the maximum pay level of the grade, unless the employee is qualified for the career pay level on the career service pay plan.

A. Same Classification:

- When returning to the same classification or same grade as previously occupied, the employee may return at the same rate of pay;
- When the employee's previous salary falls below the lowest entry salary level of the grade or

classification for the position they are being rehired, the employee's rate of pay would be adjusted to the lowest entry rate of pay.

B. Different Classification:

- When the employee's previous salary falls below the lowest entry salary level of the grade or classification for the position they are being rehired, the employee's rate of pay would be adjusted to the lowest entry rate of pay.
- When the employee returns to a different classification, the employee may return at the same rate of pay if the rate of pay falls within the grade of the new classification on the appropriate authorized pay plan;

C. Line Item Maximum Annual Salary

- When an employee's previous rate of pay was set in dollars in a specific line item maximum annual salary, the employee may return at the same rate of pay if the rate of pay falls within the grade of the new classification on the appropriate authorized pay plan.
- The new rate of pay cannot exceed the maximum pay level of the new grade for which the employee is hired, unless the employee qualified for the career level on the career service pay plan.

If the above calculation provides a lower salary than the employee could otherwise receive entering state service, the former employee may return as a new employee.

- If a former employee returns to state service within thirty (30) consecutive working days, the employee will be processed as a transfer whether the re-employment is with the former agency/institution of higher education or in a different agency/institution of higher education.

7.5 Compensation for Rehiring Employees Reference: OPM 20.02

Employees who have been terminated for more than thirty (30) working days from state government employment and return to work in state government will have their rate of pay for which the rehired employee is eligible established from their previous rate of pay and shall further be calculated as follows:

A. Same Classification:

When returning to the same classification or same grade as previously occupied the employee may return at the same rate of pay;

When the employee's previous salary falls below the lowest entry salary level of the grade or classification for the position they are being rehired, the employee's rate of pay would be adjusted to the lowest entry rate of pay.

B. Different Classification:

When the employee returns to a different classification, the employee may re-turn at the same rate of pay if the rate of pay falls within the grade of the new classification on the appropriate authorized pay

plan;

When the employee's previous salary falls below the lowest entry salary level of the grade or classification for the position they are being rehired, the employee's rate of pay would be adjusted to the lowest entry rate of pay.

C. Line Item Maximum Annual Salary

When an employee's previous rate of pay was set in dollars in a specific line item maximum annual salary, the employee may return at the same rate of pay if the rate of pay falls within the grade of the new classification on the appropriate authorized pay plan.

The new rate of pay cannot exceed the maximum pay level of the new grade for which the employee is hired, unless the employee qualified for the career pay level on the career service pay plan.

If the above calculation provides a lower salary than the employee could otherwise receive entering state service, the former employee may return as a new employee.

7.6 Lump Sum Termination Payments Reference: OPM 20.28

Upon termination, resignation or retirement, the amount due the employee from accrued and unused annual leave shall be paid in a lump sum to the employee unless the employee is beginning a period of active duty for military service and requests that such leave not be liquidated by a lump sum payment but instead be held in escrow by the state and be reinstated upon the employee's return to state employment. This lump sum must not exceed thirty (30) days of annual leave inclusive of holidays.

No employee receiving such additional compensation shall return to State employment until the number of days for which they received the additional compensation has expired. However, the employee may reimburse ADE for the number of days paid but not yet expired. Such reimbursement will result in the appropriate number of days being reinstated to the employee's accrued annual leave.

Upon the death of an active employee the amount of any accrued, unpaid sick leave incentive benefit and any unused annual and holiday leave due the employee shall be paid to the employee's estate or authorized beneficiary. This lump sum payment may not exceed \$7,500 for any sick leave incentive benefit and must not exceed sixty (60) days or four hundred-eighty (480) hours of annual and holiday leave.

Payment for the additional compensation shall not be considered as exceeding the maximum for an authorized position.

If an employee receives compensation for unused sick leave at retirement and returns to state employment, the employee shall not be required to wait until the expiration of the number of days for which they received additional compensation before returning to state employment or to repay the amount of the compensation.

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SECTION VIII - WORKING CONDITIONS AND HOURS

8.1 Smoking Policy

Smoking is prohibited in ADE buildings, vehicles and within twenty-five (25) feet of all building entrances. This policy applies equally to all employees and visitors. (See GPD #15)

8.2 Maintenance of Facilities

Reports and requests regarding the condition of the building or employee's office area should first be directed to the supervisor or manager, Division Assistant Commissioner and then to the Assistant Commissioner of Fiscal and Administrative Services.

8.3 Work Schedules

Pursuant to Governor's Policy Directive (GPD) 5, the standard office hours for ADE shall be from 8:00 a.m. until 4:30 p.m. However, the Commissioner of Education or designee shall have flexibility to establish other working hours for departmental personnel so long as all employees work a minimum eight-hour day. The Governor shall approve any deviations from the five-day, 40-hour workweek. An ADE Work Schedule must be filed with the Human Resources Office and written justification provided in the area designated on the form for work schedules outside standard office hours.

ADE Managers or their designees are responsible for insuring that employee work schedules are posted and clearly defined; that adequate staff is available at all times to meet the demands of ADE customers and the public; and that adequate supervisory staff is present and available to workers.

8.4 Fair Labor Standards Act

The main consideration of the Fair Labor Standards Act (FLSA) is that non-exempt staff should work no more than forty (40) hours per week; this means hours actually worked. For example, a non-exempt employee who arrives at his/her workstation early should not perform any work-related duties until his/her regular work hours. Non-exempt employees should not remain in the building past their eight (8) hour work schedule. All non-exempt employees should follow the work schedule that is on file in the Human Resources Office. In addition, non-exempt employees should adhere to the following:

- Non-exempt employees should not answer the telephone nor greet visitors prior to the beginning of their official workday schedules.
- Non-exempt employees should not answer the telephones during meal periods nor should they answer telephones or greet visitors after the end of their workday. Office calls should not be accepted by non-exempt employees during meal periods. When lunch schedules cannot be worked out within the office to cover the office telephones, calls must be forwarded to other offices agreeing to accept them. However, incoming personal calls may be transferred to the employee on meal breaks if the caller identifies the call as personal.

- Emergencies/special situations should be resolved by the supervisor.
- Breaks cannot be used to lengthen the meal period from thirty (30) minutes to one hour.
- At no time is a non-exempt employee allowed to take work away from the office.

Personnel employed in executive, administrative, professional, or certain computer-related capacities generally are exempt from the provisions of the FLSA. These employees are not required to fill out hourly time records, but must account for daily attendance. In addition, exempt employees will not receive overtime compensation. Any questions concerning work periods should be directed to ADE Office of Human Resources.

8.5 Breaks and Lunch Period

Neither state nor federal wage and hour laws require an employer to provide a break. However, your supervisor may authorize a mid-morning and mid-afternoon break of no more than 15 minutes each to be taken on ADE premises. Breaks cannot be accumulated, cannot cover for late arrival to work, extend lunch hours, or early departure from work. The time spent on authorized breaks must be counted as hours worked. Any exceptions to the above must be approved through the Division Assistant Commissioner and the Assistant Commissioner for Fiscal and Administrative Services.

ADE employees must include either a thirty (30) minute or one hour lunch period on their work schedules. Employees assigned an 8:00 a.m. to 4:30 p.m. work day are allowed thirty (30) minutes for lunch. Lunch periods for all schedules must be taken between 11:00 a.m. and 2:00 p.m. Normally, employees remove themselves from the work location and are therefore not performing any duties.

However, when a non-exempt employee remains at the work location and while eating, no job duties should be performed.

ADE requires all employees to have a work schedule on file in the Human Resources Office.

8.6 Telephone Calls

ADE's telephones are to be used for serving the public in conducting ADE business.

As an employee, you are reminded that you were hired to perform an important job function, therefore, while personal calls are permitted, they should be kept to a minimum and should in no way interfere with the normal work duties or responsibilities of the employee. Personal long distance calls shall not be charged to ADE.

8.7 Personal Use of Electronic Communication

Personal use of cell phones, smart phones, tablets, and other electronic communication devices should be kept to a minimum during an employee's work day and shall in no way interfere with normal work duties

or responsibilities of the employee.

- Personal use includes, but is not limited to, using cell phones, smart phones, tablets, or other electronic communication devices for phone calls, text messaging, emails, web browsing, games, and applications.
- It is within the supervisor's discretion to further limit the employee's personal use of electronic communication devices to ensure the productivity of the employee and the advancement of ADE goals.
- Frequent or lengthy personal use of cell phones, smart phones, tablets, or other electronic communication devices can affect productivity, disturb others, and may result in disciplinary action, up to and including termination.

8.8 Compensatory Time

ADE's policy is to give compensatory time off in lieu of payment for overtime hours worked. Compensatory time is defined as time physically worked in excess of forty (40) hours in the work week (Sunday to Saturday) for non-exempt employees. Compensatory time may not be earned nor taken in less than fifteen (15) minutes increments.

Overtime hours will be calculated in compliance with the FLSA as may be applicable. The State has established a seven day work period (Sunday, 12:00 midnight through Saturday, at 11:59 p.m.). Compensatory time-off will be calculated at one-and-one-half times the regular rate of hourly pay for any time physically worked over 40 hours in the designated seven (7) day work period. It is the responsibility of the Division Assistant Commissioner or his/her designee to manage and grant compensatory time. Only in extraordinary circumstances should a non- exempt employee be required to work more than forty (40) hours a week. Prior approval is required. The following actions are the preferred order for addressing the accumulations of compensatory time:

- Supervisors should adjust work schedules and/or leave approval during the workweek to prevent the accumulation of compensatory time.
- Supervisors may request or direct employees to use their compensatory time during a period of time that has minimal impact on the work unit's operations. This action may be taken to reduce the accrued compensatory time balance and avoid cash payments.
- Employee must exhaust all accrued compensatory time before use of annual leave.

When an employee is off on paid leave, such as sick leave, holiday, annual leave, jury leave, etc., and the employee is completely relieved of all duties, such time is not hours worked for purposes of calculating overtime.

A maximum of 240 hours (160 hours of overtime worked) is allowed to accumulate. Employees who accrue more than 240 hours of compensatory time must be paid for that time. Any compensatory time that has not been taken at the time of the employee's separation from ADE will be paid through payroll. The compensatory time will be paid at their last rate of pay immediately prior to separation.

- When an employee uses earned compensatory time, he or she shall be paid at the base rate

of pay of his/her current grade.

- Compensatory time may be earned only with the prior approval of the Assistant Commissioner of the Division, or his/her designee.
- Employees shall request to use earned compensatory time by completing a request for leave form. ADE can require the employee to use any and all accrued compensatory time.

Upon termination from employment, the employee is to receive cash payment for any overtime accrued which has not been used at a rate not less than:

- The average regular rate received by an employee during the last three (3) years of his/her employment; or
- The final regular rate of pay received by an employee, whichever is higher.

General Guidelines for Overtime

Employees may not work overtime unless authorized in advance to do so by their supervisor. Arriving early and staying late without permission is prohibited. The employee supervisor will try to give the employee reasonable notice when the need for overtime work arises. Please remember, however, that advance notice may not always be possible.

ADE employees receive leave on the books in lieu of cash payment. Overtime is only earned when the physical time worked extends beyond the usual scheduled work period. A combination of paid leave and hours worked cannot be used to earn overtime. The time must be physically worked.

Recording of Compensatory Time

Each unit/section should have an overtime authorization process and inform overtime eligible employees that they must obtain advance supervisory approval to work more than their regular work schedule. ADE employees are required to maintain and submit complete and accurate records regarding compensatory time earned and used. Compensatory time earned shall be included as a separate category on the Employee Time Record; employees shall request to use earned compensatory time by completing a Request for Leave Form.

Upon termination from employment, the employee will receive payment for any accrued compensatory time which has not been used. Timesheets indicating the time they worked including overtime that will result in either additional pay (more than 240 hours) or time off.

Copies of Timesheets for employees identified as non-exempt must be maintained at the appropriate Assistant Commissioner/unit leader level.

Compensatory time will be submitted within the same pay period to the immediate supervisor and appropriate Assistant Commissioner.

8.9 Time Sheets

A bi-weekly time sheet must be kept for every non-exempt employee. It is state and federal law that accurate work records are kept of every hour the employee works and the earned leave time taken. Falsification of a time sheet is a breach of State government policy and is grounds for disciplinary action, up to and including termination. The employee's immediate supervisor and/or time keeper will instruct the employee on how and when the time sheet is to be completed. Accurately recording time worked and completing time sheet and submitting to time keeper is the responsibility of every non-exempt employee. Should the employee make an error on time sheet, notify supervisor immediately. Time worked is the time actually spent on a job(s) performing assigned duties. ADE does not pay for extended breaks or time spent on personal matters.

SECTION IX

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SECTION IX – EMPLOYEE-CONDUCT AND DISCIPLINARY ACTION

9.1 Employee Conduct and Work Rules

All ADE personnel are expected to comply fully with the letter and spirit of the Employee Conduct and Work Rules set forth in this Handbook to assure orderly conduct, provide the best possible work environment and accomplish the goals and mission of ADE. ADE expects employees to follow rules of conduct that will protect the interests and safety of all employees and the employer. Conduct that interferes with operations discredits ADE or is offensive to the public or fellow employees will not be tolerated and may result in employee disciplinary action, up to and including a suspension without pay or termination.

It is not possible to list all forms of behavior that are considered unacceptable in the workplace. The following are examples of infractions of rules of conduct that may result in disciplinary action up to and including a suspension without pay or termination of employment. **This listing is not all-inclusive and only serves to provide a general guide to employee conduct and work rules:**

1. Theft or inappropriate removal, possession or use of state property;
2. Working under the influence of alcohol or illegal drugs;
3. Possession, distribution, sale, transfer or untimely use of alcohol or controlled substance in the workplace or that affect the workplace. This includes operating employer-owned vehicles or equipment or reporting to work under the influence;
4. Fighting or threatening violence in the workplace;
5. Boisterous or disruptive activity in the workplace;
6. Negligence or improper conduct causing damage to ADE-owned or customer- owned property;
7. Insubordination or other disrespectful conduct;
8. Sexual or other unlawful or unwelcome harassment;
9. Excessive absenteeism or any absence without notice, abuse of leave policies or job abandonment;
10. Unauthorized use of telephone or other ADE-owned equipment;
11. Using ADE equipment for purposes other than business (i.e. playing games on computer or personal Internet usage);
12. Unauthorized absenteeism from work during the workday;
13. Unauthorized disclosure of confidential information;
14. Unsatisfactory performance or conduct;

15. Falsification of timesheets or reports;
16. Violation of safety or health rules; and
17. Smoking in the workplace.

Employment with ADE is at the mutual consent of the Commissioner of Education and the employee and either party may terminate that relationship at any time, with or without explanation and with or without advance notice.

9.2 Performance Improvement Plan (PIP)

If at any time during the evaluation period the supervisor determines that the employee's performance in one or more of the Performance Standards or the overall performance has fallen below an acceptable standard ("satisfactory"), the supervisor will immediately place the employee on performance-based probation, address those areas, and counsel with the employee. The probationary period will not exceed 90 calendar days initially.

The supervisor will create a written Performance Improvement Plan (PIP) of action to guide the improvement and/or corrective action. The PIP will clearly define what is expected. The supervisor will consistently monitor and provide feedback/counseling to the employee the area(s) that need to be corrected.

If the employee's performance in any area improves during the probation period but not to the level of satisfactory standards by the end of the probationary period, the rater may extend, but is not required to extend, the probationary period for an additional timeframe not to exceed 30 calendar days. If the employee does not exhibit performance improvement to the satisfactory level at the end of the second probationary period, the employee will be subject to a demotion, transfer, reassignment, or termination.

If an employee is placed on probation, the terms and conditions of the probation will be documented and a copy sent to ADE Human Resources Office for placement in the employee's official personnel file. If the employee's performance improves and the probation period is ended, written documentation of the probation results will be sent to ADE Human Resources Office for placement in the employee's official personnel file.

Employees are allowed to make a formal request for reconsideration of their performance evaluation rating. Employees should always receive a copy of the completed and signed Performance Evaluation packet. See ADE's PIP form.

9.3 Attendance and Punctuality

ADE depends on its employees to ensure the ongoing success of its operations and to meet the challenges of the future. Consistent and timely employee attendance is extremely important in this regard. Unanticipated absence(s) and/or tardiness of an employee, places a burden on other employees and on ADE. For these reasons, all employees are expected to be at their assigned workstation during their scheduled work hours and to adhere to the work schedule established by their supervisor.

In the rare instance when an employee cannot avoid being late to work or is unable to work as scheduled, he or she should notify their immediate supervisor or the designee in advance of the anticipated tardiness

or absence. If the immediate supervisor/designee is not available when an absence is called in, the employee should notify the designated ADE staff person. Attendance records are a vital factor in decisions regarding promotions, transfers and discharges; they become a permanent part of the employee's history. Failure to notify immediate supervisor/designee, unauthorized absences, excessive absences or tardiness will result in disciplinary action, up to and including termination.

Unauthorized absences are those occurring when an employee has not obtained required advance approval for leave or has exhausted all leave balances and leave has not been approved for other available types of authorized leave, i.e., regular LWOP, Family and Medical Leave, Maternity Leave, Catastrophic Leave, Military Leave and Court/Jury Duty Leave. Employees who are absent due to a work-related injury or illness and who are receiving Workers' Compensation benefits are exempt from this policy.

Tardiness includes delay in reporting to work at the employee's scheduled starting time, returning late from lunch or scheduled break periods and overdue return to the employee's work site after leaving the work station on official business. Unexplained and unauthorized tardiness is prohibited and will be charged to LWOP, which can be recorded in one-minute increments. Also, employees will be charged LWOP for unauthorized early departures from the workplace.

9.4 Personal Appearance

Since the appearance of a state employee is a public and personal matter, it shall be the policy of ADE to encourage all employees to use good judgment and discretion in their dress and appearance.

It shall be the responsibility of all employees to represent ADE to the public in a manner, which shall be courteous, efficient and helpful. ADE employees should always be well groomed and dressed in a manner suitable for the public service environment and to reflect favorably ADE's image.

During the days in which the high temperature is expected to exceed 90 degrees, ADE employees shall be encouraged to dress comfortably, so long as the manner of dress is commensurate with professional standards and the attire is neat and clean (as reflected in GPD 11). If an employee is inappropriately dressed, they will be sent home to change. Time lost will be charged to annual, holiday, compensatory or LWOP. Consult immediate supervisor if there are additional questions on appropriate business attire. The employee's supervisor will discuss the subject of personal appearance with the employee if it is determined that the employee's dress does not positively reflect the image of ADE.

9.5 Drug and Alcohol Free Workplace

Drug abuse and use at the workplace are subjects of immediate concern in our society. These problems are extremely complex and ones for which there are no easy solutions. It is the policy of the State of Arkansas and ADE that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the workplace is prohibited. Any employee violating this policy will be subject to discipline up to and including termination. The specifics of this policy are as follows:

1. State agencies will not differentiate between drug users and intent to deliver or sellers. Any employee who gives or in any way transfers a controlled substance to another person or sells or manufactures a controlled substance while on the job or on college premises will be subject to discipline up to and including termination.

2. The term "controlled substance" means any drug listed in 21 U.S.C. Section 812 and other federal regulations. Generally, these are drugs that have a high potential for abuse. Such drugs include but are not limited to, heroin, marijuana, cocaine, PCP and "crack." They also include "legal drugs" which are not prescribed by a licensed physician.
3. Each employee is required by law to inform ADE within five (5) days after he or she is convicted for violation of any federal or state criminal drug statute where such violation occurred on ADE's premises. A conviction means a finding of guilt (including a plea of nolo contendere) or the imposition of a sentence by a judge or jury in any federal court, state court, or other court of competent jurisdiction.
4. ADE must notify the U.S. government agency with which the contract was made within ten (10) days after receiving such notice from the employee or otherwise receives actual notice of such a conviction.
5. If any employee is convicted of violating any criminal drug statute while employed in the workplace, he or she will be subject to discipline up to and including termination. Alternatively, ADE may require the employee to successfully finish a drug abuse program sponsored by an approved private or governmental institution.
6. As a condition of further employment on any federal government contract, the law requires all employees to abide by this policy.

9.6 Personnel Complaints

ADE operates on an open door policy basis. If an employee finds that he or she is faced with a problem involving another employee, whether that employee is a peer or a supervisor, a good faith effort should be made by the individuals involved to reconcile the problem. If the individuals involved are unable to reach a satisfactory resolution, then each party should explain the problem in written form, along with appropriate recommendations for resolution and it will be referred to the next higher level of authority within ADE. Though the Commissioner of Education retains the right to intercede at any point in the process, it is expected that the individuals involved will follow the chain of authority.

The complaint procedure may be utilized not only for work-related disagreements between employees and their peers or supervisors, but may also be utilized if an employee wishes to submit in written form concerns regarding any personnel action taken that affects that employee.

If disciplinary action is taken concerning an employee's employment by the employee's supervisor, the employee may discuss that action with the appropriate Assistant Commissioner in an effort to change or modify the personnel action. This discussion may be confidential if the employee desires. It is within the discretion of the Commissioner of Education and/or the Assistant Commissioner to reverse, modify or affirm the supervisor's decision with respect to disciplinary measures.

The Assistant Commissioner or Commissioner of Education may at their discretion, directly place an employee on probation, suspension without pay or terminate that employee without consultation with the supervisor.

9.7 Alternative Dispute Resolution (ADR) or Mediation

I. Purpose

The purpose of these rules and procedures is to establish a dispute resolution process pursuant to Arkansas Code Annotated §§ 21-1-701 through 704 for the prompt review, impartial consideration, and equitable disposition of Arkansas state employee grievances.

These rules and procedures also encourage alternative means of discussion and resolution among supervisory employees and their employees.

II. Definitions

Administrative Record – The case file specific to each grievance assembled according to the Office of Personnel Management (“OPM”) Administrative Record Rules.

Administrative Review Hearing – An internal fact-finding hearing before a Hearing Officer.

Adverse action – To discharge, threaten, or otherwise discriminate or retaliate against a public employee in any manner that affects the employee’s employment, including compensation, job location, rights, immunities, promotions, or privileges.

Appeal – A written request by a party to OPM for a review by the State Employee Grievance Appeal Panel of a final decision from the Commissioner of Education.

Disciplinary action – Termination, suspension, involuntary demotion, written reprimands, and non- new-hire probation.

Dispute resolution – A procedure that allows parties to constructively manage conflicts through grievances or mediation.

Employee – A person regularly appointed or employed in a position of state service by the state agency for which he or she is compensated on a full-time basis or on a pro rata basis for whom a class title and pay grade are established in the appropriation act for the state agency in accordance with the Uniform Classification and Compensation Act. An employee on initial new-hire probationary status is not an employee for purposes of these rules and procedures. An employee does not include a supervisory employee.

In ADE, the employees occupying the following positions do not have access to these procedures:

ADE Academic Facilities SR Project	ADE State Network Engineer
ADE APSCN Applications	Agency Controller II
ADE APSCN Division Manager	Attorney
ADE Area Project	Attorney Specialist
ADE Assistant to Commissioner/Director	Attorney Supervisor
ADE Budget Manager	Database Specialist
ADE Coordinator of Governmental	Education Chief Investigator
ADE Coordinator of Nutrition Services	Education Program Manager
ADE Director of Child Nutrition	Fiscal Support
ADE Finance Division Manager	Information Systems Analyst
ADE Finance Program Coordinator	Information Systems Analyst
ADE PLSB Chief Investigator	Licensed Architect
ADE Program Administrator	Managing Attorney
ADE Special Education Division Manager	Public School Program Advisor
ADE State Systems Administrator	Senior Software Support Software Engineer Lead
	Supervisor Special Education

Grievance - A complaint by an employee regarding a disciplinary action, discrimination, harassment, or the approval/denial of compensatory time made by the supervisory employee, but not including compensation and conditions which are beyond the control of the state agency or are mandated by law.

Grievance Officer – A person designated by the state agency as having the responsibility for acting as the liaison between the employee and the state agency.

Hearing Officer – An impartial person who is appointed to review the facts of the grievance and make a recommendation for resolution to the Commissioner of Education.

Mediation – A collaborative problem-solving and joint decision-making process between the employee and supervisory employee, through utilization of a third-party neutral (mediator).

Party – The employee filing the grievance or the supervisory employee against whom the grievance has been filed.

State agency – An agency, board, commission, department, division, or office of state government within the executive branch.

State Employee Grievance Appeal Panel (“Panel”) – An impartial appeal panel established to review the facts of the grievance and issue a binding decision.

Supervisory employee – An individual having authority in the interest of a state agency to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees of the state agency; or if his or her exercise of authority requires the use of independent judgment and is not of a merely routine or clerical nature, the responsibility to direct other employees of the state agency by which he or she is employed.

III. Policy

It is the policy of ADE that all employees shall be given the opportunity through established steps and procedures, to resolve complaints or grievances, which they believe adversely, affect their employment or working conditions in a timely manner.

The state agency and the employee shall take all reasonable efforts to settle a complaint or grievance as quickly as possible. Informal discussion between a supervisory employee and employee is encouraged.

Participation in the dispute resolution process is voluntary. The dispute resolution process may be terminated by the employee at any stage if an agreement between the parties is reached.

A party may be represented at each step of the dispute resolution process except during informal discussions between the employee and supervisory employee held prior to the filing of a grievance. Attorney's fees shall not be awarded.

These procedures established herein recognize the employment-at-will doctrine and its exceptions as defined by the Arkansas Supreme Court and do not confer a property right in employment, either expressed or implied.

Access to any of these procedures does not prohibit an employee from utilizing remedies outside these procedures. An employee reserves the right to file a complaint with a federal entity or pursue the matter in court.

IV. Procedure

If the complaint is not resolved by informal discussion with the supervisory employee, the employee may contact a Grievance Officer, or his or her designee, who shall assist the employee in initiating the formal dispute resolution process.

The employee has five (5) working days from the date of the disputed action to submit the Dispute Resolution Form to the Grievance Officer. An employee shall complete the Dispute Resolution Form completely and provide sufficient information detailing the nature of the disputed action. Incomplete forms will not be accepted.

All complaints or grievances shall be processed through an ADE Grievance Officer and shall be handled as follows:

1. The employee has the option to choose mediation or proceed to the Administrative Review hearing and shall clearly indicate on the Dispute Resolution Form which option is selected as the first step. Mediation is only available for grievances alleging the following:
 - i. Termination;

- ii. Demotion;
- iii. Suspension for fourteen (14) or more days; or
- iv. Subject to adverse action by his or her state agency for
 - 1. Communicating in good faith to an appropriate authority:
 - a. The existence of waste of public funds, property, or manpower, including federal funds, property, or manpower administered or controlled by a public employer; or
 - b. A violation or suspended violation of a law, rule, or regulation adopted under the laws of this state or a political subdivision of the state;
 - 2. Participating or giving information in an investigation, hearing, court proceeding, legislative or other inquiry, or in any form of administrative review; or
 - 3. Objecting or refusing to carry out a directive that the employee reasonably believes violates a law, rule, or regulation adopted under the authority of the laws of the state or a political subdivision of the state.

All other grievances proceed to an Administrative Review Hearing.

2. Determination of Grievability

- a. The Grievance Officer shall determine whether the complaint is grievable or eligible for mediation.
 - b. If the Grievance Officer and employee are unable to agree on whether a complaint is grievable or eligible for mediation, then the complaint shall be sent to the Grievance Coordinator at OPM for a review by the Panel.
 - c. The final determination on whether a complaint is grievable or eligible for mediation shall be determined by the Panel within seven (7) working days of the Grievance Coordinator's receipt of the complaint.
 - d. If the decision states that the complaint is grievable or eligible for mediation, then the employee may proceed to mediation.
3. If the supervisory employee does not consent to mediation, the first step shall be the Administrative Review Hearing.
4. The Grievance Officer shall be responsible for assembling the Administrative Record pursuant to OPM's Administrative Record Rules.

The mediation shall be held within ten (10) working days of both parties agreeing to mediate.

OPM shall maintain a roster of certified Mediators and shall be responsible for assigning a mediator.

A Mediator is not required to be an attorney but shall be certified by the Arkansas Alternative Dispute Resolution Commission. The Mediator shall not be employed by the state agency that is a party to the mediation.

A party may be represented by an attorney or other representative at the mediation.

The mediation shall be confidential; however, the Settlement or Non-settlement Agreement is subject to the Freedom of Information Act.

The Settlement or Non-settlement Agreement shall be signed by the parties and become a part of the Administrative Record.

Within one (1) working day of the conclusion of the mediation, the mediator shall provide a copy of the Settlement or Non-settlement Agreement to the Commissioner of Education.

Settlement Agreement - If the parties reach a settlement during mediation, the dispute resolution process is considered resolved and the settlement is binding on the parties.

Non-settlement Agreement - If the parties reach a Non-settlement Agreement during mediation, the employee may request within three (3) working days of the Non-settlement Agreement an internal Administrative Review Hearing before the Hearing Officer.

a. Administrative Review Hearing

The Grievance Officer shall coordinate and schedule the hearing to be held within ten (10) working days of receipt of the employee's request.

The Grievance Officer shall be responsible for assembling the Administrative Record and providing copies to the parties and the Hearing Officer.

The hearing shall be recorded and may be transcribed at the discretion of the Hearing Officer and become a part of the Administrative Record.

A party may have any persons having knowledge of matters relevant to the grievance present at the hearing to provide testimony. The Grievance Officer is responsible for notifying any ADE witnesses. The employee is responsible for notifying any witnesses that are not ADE employees. The Hearing Officer may request to hear testimony from any persons having knowledge of matters relevant to the grievance that are not already requested to be present.

A party or the Hearing Officer may "Invoke the Rule", excluding all non-party witnesses from the hearing room unless they are testifying.

A party may present additional evidence. If accepted by the Hearing Officer the evidence shall become a part of the Administrative Record as an exhibit.

Within three (3) working days of the conclusion of the hearing, the Hearing Officer shall issue a typewritten recommendation summarizing the hearing and explaining in detail the basis for his or her decision. The Hearing Officer shall provide a copy to the Commissioner of Education, the parties, and the Grievance Officer. The recommendation shall become a part of the Administrative Record.

The Commissioner of Education shall review the recommendation and issue a final decision within five (5) working days.

b. Appeal to OPM

If an employee is not satisfied with the decision reached by the Commissioner of Education, he or she may appeal, using a form provided by OPM, and request nonbinding mediation or an appeal hearing

before the Panel. Mediation is only available for grievances alleging the following:

- a. Termination;
- b. Demotion;
- c. Suspension for fourteen (14) or more days; or
- d. Subject to adverse action by his or her state agency for
 - i. Communicating in good faith to an appropriate authority:
 1. The existence of waste of public funds, property, or manpower, including federal funds, property, or manpower administered or controlled by a public employer; or
 2. A violation or suspended violation of a law, rule, or regulation adopted under the laws of this state or a political subdivision of the state;
 - ii. Participating or giving information in an investigation, hearing, court proceeding, legislative or other inquiry, or in any form of administrative review; or
 - iii. Objecting or refusing to carry out a directive that the employee reasonably believes violates a law, rule, or regulation adopted under the authority of the laws of the state or a political subdivision of the state.

All other appeals proceed to the Panel. Employees who previously participated in mediation before the Administrative Review Hearing may choose to participate in mediation again.

If an employee chooses nonbinding mediation, he or she does not waive his or her right to later request an appeal hearing before the Panel.

A request for nonbinding mediation shall be filed with the Grievance Officer no later than fifteen (15) working days of receipt of the Commissioner of Education's decision.

A request for an appeal hearing before the Panel shall be filed with the state agency's Grievance Officer no later than ten (10) working days of receipt of the Commissioner of Education's decision or ten (10) working days of the unsuccessful mediation.

After the conclusion of the appeal hearing before the Panel, either party may appeal to the CFO-the CFO has ten (10) working days of receipt of the latest response to make a final decision. The CFO's decision shall be issued to both parties and/or their representatives within ten (10) working days of receipt of the appeal or response to the appeal, whichever is later. The CFO's decision shall be binding on both parties and the matter shall be considered final.

This, however, does not prohibit employees from availing themselves of remedies outside these procedures. Each employee retains the right to file a complaint with the Equal Employment Opportunity Commission or pursue other legal remedies.

9.8 Discipline Procedure

In all organizations a formulated discipline procedure is appropriate. It is the goal of ADE that supervisors and employees resolve concerns promptly. ADE recognizes that some behaviors may be deemed as minor infractions while others are considered major offenses. Discipline applied by supervisors should be aimed at improving employee behavior so as to accomplish ADE's goals and mission. Employees are not entitled to have a witness/representative during the discipline procedure. The following steps are provided to assist supervisors with the disciplinary procedure for most violations and shall not be interpreted as a progressive discipline policy.

Supervisors have the authority to administer the following in any order or a combination thereof:

1. Informal Discussion

An informal discussion may be the only disciplinary action required in many instances. Supervisors should explain the rule or standard that has been violated and, if necessary, advise the employee of the next action to be taken if similar violations occur again. This discussion does not have to be documented. Any documentation created is maintained by the supervisor and is not placed in the employee's personnel file.

2. Letter of Reprimand

Supervisors may explain the conduct to be corrected and the desired corrected behavior in a letter of reprimand. The employee will receive the original letter and will be informed that a copy will be placed in the supervisor's file and in the Human Resources Office's official personnel files.

The employee should be given the opportunity to respond to the reprimand letter. Any written response from the employee will be attached to the letter of reprimand being placed in the employee's personnel file.

3. Disciplinary Probation

A supervisor may place an employee on disciplinary probation (a period of observation) for sixty (60) days. Employees on disciplinary probation are generally not eligible for promotional opportunities, and performance evaluations due during the probationary period will be delayed for the length of the probation.

4. Suspension (LWOP)

Employees may be placed on without pay for a period of no less than two (2) days and no greater than ten (10) days. If the employee is in a management position the suspension without pay shall be between five (5) and ten (10) days.

5. Termination

Employees may be terminated at any time, for any reason, or for no reason.

9.9 Policy on Social Media

Social Media Policy

Definition of Social Media

For the purposes of this policy, "social media" is defined as websites or applications that enable users to communicate with each other by posting information, comments, messages, images, or videos. Some examples of social media include, but are not limited to, Facebook, Twitter, LinkedIn, Google+, Pinterest, Instagram, blogs, forums, chatrooms, and photo-sharing websites.

Personal Use

Employees are allowed to have and use personal social media sites. These sites must remain personal in nature and be used to share personal opinions or non-work related information. During normal business hours, employees may use personal social media for limited family or personal communications so long as those communications do not interfere with their work. Supervisors may

further restrict employee's use of social media during the workday.

Professional Use

Agency related communication through social media should remain professional in nature and should always be conducted in accordance with the agency's communications policy, practices, and expectations.

Employees must not use social media for political purposes, to conduct private commercial transactions, or to engage in private business activities.

9.10 State Employee Political Activity: Reference OPM 70.12

State employees can, should and are encouraged to participate in the election process so long as assistance to candidates is rendered on the employee's own time and State property is not involved. Employees are not to endorse candidates in their official capacity as State employees, this includes the Governor. A person's status as an employee of the State is public knowledge. Public endorsements of a candidate can easily be interpreted as endorsements of an official capacity. The legal provisions can be summarized as follows:

1. State employees are prohibited from engaging in partisan political activity during the hours they are performing work for and being paid by ADE.
2. Political banners, posters or literature should never be allowed to be displayed on or in any State office.
3. Political bumper stickers or decals should never be displayed on or in a State car. State vehicles must not be used during or after working hours to promote or assist the candidacy of any person in any way. State employees may not display political advertising on personal vehicles when using these vehicles in the performance of official duties for which they shall be reimbursed by the State.

No State official (whether elected or appointed) shall assess employees for any political purpose or use threats or coercion to require or persuade an employee to contribute to a particular candidate or cause.

Requests for leaves of absences to work in campaigns should be submitted to the employee's Assistant Commissioner. Each Assistant Commissioner should establish an internal policy as to whether such leave without pay shall be allowed in that division.

In addition to these prohibitions established by Arkansas law and by administrative policy, there are other specific limitations which apply to employees whose salaries are either partially or totally paid from federal funds. These rules are established by the Federal Hatch Act.

For specific questions about Arkansas Election Law consult the Secretary of State's Elections Division (501.682.1010).

Questions regarding the Federal Hatch Act as it relates to federally-funded State employees may be answered by the Office of Special Counsel in Washington, D.C. <http://www.osc.gov>

9.11 Exit Interviews

In an effort to gather information regarding the workplace experiences of regular employees who are leaving ADE, the employee is encouraged to complete an exit interview prior to departure. Exit interviews are not mandatory but are considered an important way to identify how ADE can maintain a positive and productive environment for its employees. The immediate supervisor will attempt to schedule an exit interview with employees who are departing voluntarily. The employee will turn in the Handbook, keys, ID badge, cellular phone, pager, ADE software, laptop computer, peripherals (calculators/digital cameras), parking pass and any other ADE related property including intellectual property and equipment they may have been assigned. Employees who are transferring or are discharged may request an exit interview with a staff member of the Human Resources Office. An exit interview form is available on ADE Intranet Site at <https://adeemployees.arkansas.gov/Pages/> forms.

9.12 Arkansas Whistle Blower Act/Fraud Detection

Adverse action: Means to discharge, threaten, or otherwise discriminate or retaliate against a state employee in any manner that affects the employee's employment, including compensation, job location, rights, immunities, promotions, or privileges.

Appropriate authority: Means a state agency or organization having jurisdiction over criminal law enforcement, regulatory violations, professional conduct or ethics, or waste; or a member, officer, agent, investigator, auditor, representative or supervisory employee of the body, agency or organization. The term includes, but is not limited to, the Office of the Attorney General, the Office of the Auditor of State, the Arkansas Ethics Commission, the Legislative Joint Audit Committee and the Division of Legislative Audit, and the offices of the various prosecuting attorneys with the power and duty to investigate criminal law enforcement, regulatory violations, professional conduct or ethics, or waste.

Communicate: Means to give a verbal or written report to an appropriate authority.

Damages: Means damages for a job-related injury or loss caused by each violation of the Whistle-Blower Act, including fringe benefits, retirement service credit, compensation for lost wages, benefits, and any other remuneration, and reasonable court costs and attorneys' fees.

Public employee: For the purpose of this policy is any person who performs a full or part-time service for wages, salary, or other remuneration for ADE.

Public employer: Means an agency, department, board, commission, division, office, bureau, council, authority or other instrumentality of the State of Arkansas, including the offices of the various Arkansas elected constitutional officers and the Arkansas General Assembly and its agencies, bureaus, and divisions; a state-supported college, university, technical college, community college or other institution of higher education or department, division, or agency of a state institution of higher education; The Arkansas Supreme Court, the Court of Appeals, the Administrative Office of the Courts, the circuit courts, and prosecuting attorneys' offices.

Violation: Means an infraction or a breach which is not of a merely technical or minimal nature, of a state statute or regulation, of a political subdivision ordinance or regulation or of a code of conduct or code of ethics designed to protect the interest of the public or a public employer.

Waste: Means a public employer's conduct or omissions which result in substantial abuse, misuse, destruction or loss of public funds, property, or manpower belonging to or derived from state or local political subdivision's resources.

Whistle-Blower: Means a person who witnesses or has evidence of a waste or violation while employed with ADE and who communicates in good faith or testifies to the waste or violation, verbally or in writing, to one of the employee's superiors, to an agent of ADE, or to an appropriate authority, provided that the communication is made prior to any adverse action by ADE.

Fraud Detection

A public employer is required to obtain a criminal background check before hiring an applicant for a position with supervisory fiduciary responsibility over all fiscal matters. The Arkansas State Police will conduct the background check. The applicant must sign a release of information to the public employer. The releasable information will be forwarded to the public employer. The public employer may pay for the criminal background check or require the applicant to pay for it.

A public employee with supervisory fiduciary responsibility over all fiscal matters is required to report a loss of public funds to Arkansas Legislative Audit (Legislative Audit) within five (5) business days of discovering the loss. The report can include apparent or unauthorized disbursements of public funds or apparent theft or misappropriation of public funds or property. An employee who purposely fails to report is guilty of a Class A misdemeanor.

Whistle-Blower

Notification

All ADE offices must post a printed sign (supplied by the Arkansas Legislative Audit on its website) that:

- (a) Inform ADE employees of their rights under the Arkansas Whistle-Blower Act,
- (b) Describes an appropriate authority to whom an ADE employee may make a good faith communication regarding fraud, waste or abuse in government; and,
- (c) The number for the hotline for the reporting of fraud, waste, or abuse in government (Ark Code Ann. § 21-1-608(b)(1-2).

Reward

An employee making a communicates waste or a violation to an appropriate authority, and that communication results in savings of state funds, the state employee shall be eligible to receive a reward equal to ten percent (10%) of the savings in state funds as a result of the changes based on that communication.

No reward shall be paid in excess of twelve thousand five hundred dollars (\$12,500).

If the reward amount is greater than twelve thousand five hundred dollars (\$12,500), the reward shall be referred to the General Assembly for an appropriation.

If a reward is appropriated to a state employer for the benefit of an employee, it shall be paid from the funds available to the state employer.

A state employee is not eligible for a reward for a communication that is part of the state employee's normal course of job duties, unless that communication is not acted upon by the state employer within ninety (90) days.

A report by an employee of a loss of public funds is considered a communication in the normal course of the employee's job duties if the employee:

1. Handles or exerts control over the funds of the employer;
2. Participates in making decisions or recommendations concerning the deposit, investment, or expenditure of the funds of the employer; or
3. Is responsible for auditing the funds of the employer.

Report by appropriate authority

Upon the resolution of a communicated matter, the appropriate authority shall provide a written report detailing the content of the communication and the outcome of the communication to the:

1. State employee who made the communication; and
2. State employer that was the subject of the communication.

A state employee may choose to forego a reward or choose to remain confidential and request to the appropriate authority that the report not include their name or identifying information. If a state employee makes this request, they **are not** eligible to receive a reward. The name and identifying information of a state employee requesting confidentiality is not disclosable under applicable state or federal laws.

After receiving the report from the appropriate authority, the state employer must within thirty (30) days of the end of the first full fiscal year in which the changes based on the communication were implemented, issue a report. The report must contain the following:

- A. The total savings in state funds resulting from the communication for the first full fiscal year in which the changes were implemented;
- B. The name of the state employee who made the communication, unless the state employee chose to maintain confidentiality; and
- C. The reward amount the state employee is eligible to receive. If a state employer concludes that the state employee is not eligible for a reward, the reasons shall be stated in the report.

The state employer report must be submitted to the Performance Evaluation and Expenditure Review Subcommittee of the Legislative Council or, if the General Assembly is in session, the Review/PEER

Subcommittee of the Joint Budget Committee and the Clerk of the Arkansas State Claims Commission. The report must also be submitted to the state employee who made the communication, unless that state employee chose to remain confidential.

Right to appeal

The state employer report to the state employee must include a notice of the right to appeal to the Arkansas State Claims Commission ("Commission"). A state employee who files an appeal is not subject to adverse action. The state employee has forty (40) days of the submission of the state employer report to file an appeal and the state employee must follow the rules and procedures of the Commission. The state employee who files an appeal has the burden of proving by a preponderance of the evidence that the:

1. The report from the state employer does not accurately reflect the savings attributable to the changes made based on the communication; or
2. The state employer did not accurately assess the determination of a reward, including denying a reward to the state employee.

When the Commission notifies the parties of its decision, it must notify them of a right to appeal that decision. The decision of the Commission may be appealed only to the Claims Review Subcommittee of the Legislative Council or, if the General Assembly is in session, the Claims Subcommittee of the Joint Budget Committee. The notice of appeal must be filed with the Commission within forty (40) days after the Commission renders a decision. The Commission is responsible for notifying the Legislative Council or Joint Budget Committee and all parties to the matter when a notice of appeal is filed.

Within thirty (30) days of the end of the appeal period to the Commission or the resolution of an appeal to the Claims Review Subcommittee, whichever is later, the clerk of the Commission shall notify the state employer of the reward amount to be paid to the state employee. The state employer shall deliver a check to the clerk of the Commission who must deposit the check as a nonrevenue receipt into the Miscellaneous Revolving Fund from which the state employee will be paid.

A state agency or institution of higher education is prohibited from taking adverse action against an employee for reporting the loss of public funds.

Communicate in good faith

ADE is prohibited from taking adverse action against an employee because the employee, or a person authorized to act on behalf of the employee, communicates in good faith the existence of waste of public funds, property, or manpower, including federal funds, property, or manpower, administered or controlled by a public employer or a violation or suspected violation of a law, rule, or regulation adopted under the law of this State or a political subdivision of the state to an appropriate authority. The communication shall be made at a time and in a manner which gives the public employer reasonable notice of the need to correct the waste or violation.

An employee communicates in good faith if there is a reasonable basis in fact for the communication of the existence of waste or of a violation. Good faith is lacking when the state employee does not have personal knowledge of a factual basis for the communication or where the state employee knew or

reasonably should have known that the communication of the waste or of the violation is malicious, false or frivolous.

A state agency shall not take an adverse action against a state employee because the employee participates or gives information in an investigation, hearing, court proceeding, legislative or other inquiry, or in any form of administrative review.

A state agency shall not take an adverse action against a state employee because an employee has objected to or refused to carry out a directive that the employee reasonably believes violates a law or a rule or regulation adopted under the authority of laws of the state.

Civil action

A state employee who alleges a violation of Whistle-Blower protections may bring a civil action for appropriate injunctive relief or actual damages, or both, within one hundred eighty (180) calendar days after the occurrence of the alleged violation.

An action commenced under this law may be brought in the chancery court for the county where the alleged violation occurred or for the county where the complainant resides, or in the chancery court of Pulaski County.

To prevail in an action brought under this law, the state employee shall establish, by a preponderance of the evidence, that the employee has suffered an adverse action because the employee, or a person acting on his behalf, engaged or intended to engage in a protected activity.

As used in this section, "damages" means damages for a job-related injury or loss caused by each violation of the Whistle-Blower Act, including, but not limited to, fringe benefits, retirement service credit, compensation for lost wages, benefits, and any other remuneration, and reasonable court costs and attorneys' fees.

A state agency shall have an affirmative defense to a civil action brought by a state employee if the adverse action taken against the state employee was due to employee misconduct, poor job performance or a reduction in workforce unrelated to a communication made pursuant to the Whistle-Blower protections. The state agency must prove by a preponderance of the evidence that the existence of the state employee's misconduct, poor job performance or a reduction in workforce is unrelated to the communication.

A court in rendering judgment under this act may order any or all of the following remedies:

1. An injunction to restrain continued violation of the provisions of the Whistle-Blower Act;
2. The reinstatement of the public employee to the same position held before the adverse action or to an equivalent position;
3. The reinstatement of full fringe benefits and retirement service credit;
4. The compensation for lost wages, benefits, and any other remuneration;
5. The payment by the state employer of reasonable court costs and attorney's fees.

A court may also order that reasonable attorney's fees and court costs be awarded to the employer if the

court determines that an action brought by a state employee under this act is without basis in law or fact. Provided, a state employee shall not be assessed attorney's fees under this section if, after exercising reasonable and diligent efforts after filing the suit, the state employee files a voluntary non-suit concerning the employer within sixty (60) calendar days after determining the employer would not be liable for damages.

Mediation

In the event the Office of Personnel Management (OPM) implements an employee grievance mediation program, a state employee or state agency or institution of higher education may voluntarily participate in mediation under OPM's mediation program if they wish to resolve a dispute between them that involves an adverse action taken against the state employee. Voluntary mediation shall occur before a civil action has been initiated in court in which the state employee and state agency are parties.

FOIA and confidentiality

The Whistle-Blower law shall not be construed to permit a disclosure which would diminish or impair the rights of any person or any public official to the continued protection of confidentiality of records or working papers where a statute or the common law provides for protection.

Generally, materials and documentation, including notes, memoranda, recordings, preliminary drafts of investigation reports, and other data gathered in connection with a communication regarding the existence of waste or of a violation are privileged and confidential and exempt from disclosure under FOIA. Confidentiality also applies to communications received by a telephone hotline. Final reports and any supporting documentation regarding communication of the existence of waste or violation are open to public inspection and copying, except documents that are otherwise exempt under law. Additionally, the name and identifying information of the employee eligible to receive a reward may be disclosed, unless the employee requests confidentiality.

REPORTING

State employees may report allegations directly to the DFA Internal Auction Section at 510-682-0370 or 800-952-8248. Complaint forms should be mailed to:

Department of Finance and Administration
Office of Accounting—Internal Audit Section
1515 W. 7th Street, Suite 215
Little Rock, AR 7220

Revised July 22, 2015

9.13 Employees Management Relations

Supervisors are required to attend following courses: Arkansas Government Basics, HRkansas for Supervisors, Interpersonal Communication, Discipline & Grievance Handling and others.

The course catalog and registering for AASIS, Supervisory and Career Development classes is available through the Employee Self-Service-ESS (<http://www.ez.arkansas.gov>). If you have an AASIS User ID and password, please register through the Employee Self-Service-ESS (<http://www.ez.arkansas.gov>). Contact the Administrative Specialist in the Human Resources Office for additional courses and information.

SECTION X

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SECTION X. OUTSIDE EMPLOYMENT

10.1 Other Employment

ADE employees may engage in extra employment outside of ADE if they desire. It is not permissible for a State employee to engage in private employment during the time he or she is scheduled to be working for the State. Further, it is unlawful for a State employee to engage in any occupation outside working hours in a manner or to an extent which constitutes a conflict of interest as defined in the law. Employees may not receive any income or material gain from outside sources for materials produced or services rendered while performing their jobs at ADE.

It should be noted, however, that employees are subject to dismissal for inadequate performance of their jobs. Anyone considering employment in addition to his or her job with the State should carefully consider whether such employment would make demands on his or her time and energies which would adversely affect job performance in the State job. This, of course, is a personal matter and requires the use of good judgment on the part of anyone considering such an arrangement.

10.2 Concurrent Employment by Two State Agencies Reference: OPM Policy 20.24

An employee may work in two different state government positions (regular, extra help or a combination) in a state and/or institution of higher education, provided that a request is made by the Commissioner of Education to the Chief Fiscal Officer of the State and provided that the combined salary payments from the agencies or institutions of higher education do not exceed the larger maximum annual salary of the line item position authorized.

An institution of higher education may pay additional compensation to classified employees for the performance of additional duties assigned to them at non-job-related institution of higher education sanctioned events, provided that those additional duties are performed at times other than normal working hours.

The work performed for the second state agency or institution of higher education may not interfere with the employee's proper and required job duties.

State employees may teach temporarily at state supported institutions of higher education even though their combined salaries will exceed the line item maximum subject to the approval of the Chief Fiscal Officer of the State.

Leave benefits may be awarded to an employee employed by different state agencies and/or institutions of higher education at a pro rata rate.

Annual, sick and holiday leave may be accrued in a secondary employment position proportionate to the hours worked in the secondary employment position.

No employee concurrently employed by more than one state agency and/or institution of higher education is allowed to be on paid sick leave with one agency and be paid or compensated by another state agency.

Any compensation received by an employee for participation in a noncredit seminar, conference, or

convention sponsored by an institution of higher education that is paid with funds generated by the seminar, conference, or convention shall be excluded from the maximum salary restrictions established in law.

10.3 Disclosure of Income in Excess of Five Hundred Dollars

Under Ark Code Ann. § 21-8-203, all state employees who are employed on a regular salary basis shall be required to disclose each source of income in excess of five hundred dollars (\$500) earned during any calendar year from sources other than their regular salary from employment or from professional or consultant services rendered for any public agency. The source and amount of income earned from other public agencies must be reported in an "Extra Income Statement" filed with the Secretary of State. Failure to file is a misdemeanor and may require disciplinary action, including but not limited, to possible suspension or termination of employment.

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SECTION XI - MISCELLANEOUS/OFFICE PROCEDURES

11.1 Maintenance of Equipment and Vehicles

When using ADE property, employees are expected to perform required maintenance and to follow all operating instructions, safety standards and guidelines. Please notify the Assistant Commissioner of Fiscal and Administrative Services promptly if any office equipment or vehicles appear to be damaged, defective or in need of repairs. ADE equipment and vehicles are to be used only for authorized ADE functions.

11.2 Mail Procedures

1. U.S. Mail

All outgoing U.S. mail must be submitted to Central Services by 2:00 p.m. in order for it to be postmarked that day. Outgoing personal mail should be placed in the building mail slots or United State Postal Service mail boxes, not in outgoing office mail.

2. Messenger Mail

Correspondence to state agencies or any other party on a State Message Service route should be sent by state messenger, thereby avoiding charges for postage. There is a messenger box at the reception area on the first floor.

3. Overnight Mail

Correspondence that has to arrive at its final destination by the next day may be sent by overnight mail with any of the current ADE vendors. Because of the additional cost, this method of delivery is only to be used in exceptional circumstances and only after receiving required approval.

11.3 Solicitation

In an effort to assure a productive and harmonious work environment, solicitation of or by ADE employees will be permitted only with the approval of the Commissioner of Education and **only before or after working hours**.

At the present time, only "not for profit" items are approved by the Commissioner of Education for solicitation. At no time is "for profit" solicitation allowed on ADE facilities.

ADE recognizes that employees may have interests in events and organizations outside the workplace. However, employees may not solicit or distribute literature concerning these activities during work time. (Work time does not include lunch periods, work breaks or any other periods in which employees are not on duty.)

11.4 Use of Computers/Expectation of Privacy

All business equipment, software, computer systems, electronic systems and all information stored,

transmitted, received, initiated, or contained in ADE's information system are the property of ADE. Use of ADE's electronic systems shall not be conducted in such a way to interfere with job functions. No ADE employee has any expectation of privacy regarding use, storage, transmittal, or transfer of data on ADE equipment or property; including but not limited to computer systems, electronic devices, cell-telephones, software systems and other ADE equipment or property.

11.5 Internet/Electronic Mail and Software Policy

ADE employees may utilize ADE Internet and email for limited personal use as long the use does not interfere with the employees' job functions. Employees should keep in mind that ADE monitors each employee's Internet and email use. Supervisors have the discretion to further limit Internet and email use, as necessary.

11.6 Recording Policy

ADE employees are prohibited from recording any wire, landline, oral, telephonic, or wireless communication that deals with ADE official business and/or workplace issues without the prior written approval of the employee's immediate supervisor or the Division Assistant Commissioner.

This policy does not prohibit or require prior approval of the recording of official meetings, hearings, or investigations which are required to be recorded either by law or ADE Policy or Rules and Regulations.

This policy does not require the Director of Communications, or his or her designee, to obtain prior approval for recording communications as part of his/her official capacity.

11.7 Security Procedures

ADE requires all managers, supervisors and employees to be knowledgeable of workplace violence and to take steps to identify and report all indications of early symptoms of workplace violence.

Workplace violence is any threatened or actual conduct by an individual against persons or property that is sufficiently severe, offensive, or intimidating so as to alter the conditions of state employment, or to create a hostile, abusive, or intimidating work environment for one or more ADE employees. Behavior constituting threats or acts of violence can include any expression that communicates a direct or indirect threat of physical harm.

1. It is the policy of ADE to comply with all applicable federal, state and local health and safety regulations and to provide a work environment as free as feasible from recognized hazards.
2. ADE monitors the daily activities of employees and visitors and is ready to respond to emergency situations should they arise.
3. ADE does not tolerate behavior that:
 - a. Is violent,

- b. Threatens violence,
 - c. Harasses or intimidates others,
 - d. Interferes with an individual's legal rights, movement or expression,
 - e. Disrupts the workplace, or ADE's ability to provide service to the public.
4. Violent or threatening behavior can include physical acts, oral or written statements, gestures and expressions.
 5. An employee should report any incidents of violent, threatening, harassing or intimidating behavior in the workplace to immediate supervisor, regardless of whether those involved are ADE employees or not.
 6. Supervisors who receive reports of violent or threatening behavior must notify the appropriate Division Assistant Commissioner and the Human Resources Office. The Human Resources Office will assist supervisors in their response to allegations of such behavior.
 7. Employees may not possess, use, or store weapons in any of ADE's buildings, in areas controlled by ADE including state owned vehicles or on any state grounds. Weapons covered by this policy include, but are not limited to: firearms, firearm ammunition, air pistols, air rifles, fireworks, incendiary devices, lock blade or fixed blade knives with a blade length of four (4) inches or greater, blackjacks, metal knuckles or any other such weapons of any description. Employees may possess chemical-agent-type products in personal use quantities for self-defense, but the employee may not use them for purposes other than self-defense.
 8. If the employee is uncomfortable with a current or potential situation, the employee should contact the Capitol Police (501.682.5173). In cases of physical assault or direct threats of harm to people or property, call 911.
 9. Authorized visitors will receive directions or be escorted to their destination. Employees are responsible for the conduct and safety of their visitors. It is mandatory that all visitors shall sign the "Visitor's Log" book on entry and exit.
 10. Furthermore, in an effort to strengthen security in ADE, video cameras have been installed near all the building entrances and on the loading dock area. The cameras will be recording 24 hours a day.
 11. For more information concerning ADE's Building Security Procedures see ADE's Maintenance Coordinator, 501.682.4266.

11.8 Freedom of Information Act Request (FOIA)

1. Examination and copying of public records is a matter of public policy in ADE. All public records shall be open to inspection and copying by any citizen of the state of Arkansas during regular business hours as provided by law. The FOIA will be complied with to the fullest extent of the law. A copy of any request for records maintained by ADE shall be forwarded to the General Counsel or his designee for appropriate action.

2. Viewing Personnel Files - An official record of the employee's work and employment history is maintained in ADE's Human Resources Office. The employee may view personnel file at any time. As a state employee, some information pertaining to employment at the ADE is open to public disclosure upon written request. While most items must be disclosed under the Arkansas FOIA, ADE Human Resources Office will attempt to notify the employee if information concerning employment is requested.

11.9 Visitors in the Workplace

To provide for the safety and security of employees at ADE, individual division or unit supervisors may impose restrictions on visitors in the workplace which are appropriate for the successful operation of that division or unit.

Authorized visitors will receive directions or be escorted to their destination. Employees are responsible for the conduct and safety of their visitors. It is mandatory that all visitors shall sign the "Visitor's Log" book on entry and exit.

The work site is not a substitute for a day care center. Employees are responsible for arranging alternative day care or using annual leave, sick leave or leave without pay, as appropriate.

If an unauthorized individual is observed on the premise of ADE, employees should immediately notify their supervisor or the Central Services Unit, 501.682.4266 or, if necessary, direct the individual to the main entrance.

11.10 Immunity from Suit

Ark. Code Ann § 19-10-305 clarifies that officers and employees of the State of Arkansas, within proper job functions and duties, are immune from liability and from suit, except to the extent that they may be covered by liability insurance, for damages or acts of omissions, other than malicious acts or omissions, occurring within the course and scope of their employment.

11.11 Legal Assistance and Professional Liability

The Arkansas Attorney General's Office will represent the employee if the employee is sued in his/her "official capacity". An "official capacity" claim against the employee is a claim against the office or position the employee holds or held at the time of the event in question. The claim would be considered as a claim against the State of Arkansas and therefore, cannot result in any personal judgment against the employee that would be satisfied by any of their personal assets. Neither ADE nor the state of Arkansas will provide legal assistance in personal matters or matters that do not pertain to the employee's job duties during the employee's work hours.

If the employee is involved in a job-related legal matter, the employees are required to fully cooperate with ADE legal counsel and others as required.

11.12 Forfeiture of or Disqualification from Public Employment

ADE, as authorized by Ark. Code Ann. § 25-16-1101, with the intent to promote integrity in public employment, requires that a public servant who pleads guilty to or nolo contendere to or is found of any felony offense relating to his or her office, position, or employment to forfeit his or her office, position, or employment and thereafter he or she is disqualified from holding any office, position, or employment with a governmental body.

11.13 Required Policies and Acknowledgments

The employee will be asked to sign forms acknowledging awareness of various ADE policies. Some of these policies will be covered in detail during orientation and the employee will be required to sign acknowledging that he or she has reviewed and understands them. All agency policies undergo routine review and updating. Employees are required to stay up-to-date with relevant policies and procedures. These documents are on ADE Intranet Site at <https://adeemployees.arkansas.gov/Pages/>

11.14 Anti-Fraud Policy

Purpose

The purpose of this policy is to implement systems and procedures that aid in the prevention of fraud and support the Arkansas Department of Education's culture and environment of honesty and ethical behavior. (The word "fraud" is used extensively throughout the Anti-Fraud and Code of Ethics Policy. Fraud as used in these documents is not intended to meet the legal definition of fraud. The use of "fraud" in these documents refers to the deliberate misuse or misapplication of state resources or assets for personal gain.) This policy is consistent with [R1-19-4-505](#) of the Arkansas Financial Management Guide.

Policy

In order to promote a culture of honesty and ethical behavior within the Arkansas Department of Education (ADE), the following procedures are mandated:

Code of Ethics

Within 30 days of the date of this policy, the ADE Management Team will distribute a copy of ADE's Code of Ethics to each employee within its administration. Administrators are required to explicitly discuss ADE's requirement that employees report conduct or transactions that violate ethical provisions or are fraudulent and the options of how to communicate these matters. To verify that employees have received a copy of the Code of Ethics, employees must sign and date the last page. The original signed page from the Code of Ethics is required to be maintained in the employees' personnel files maintained by the ADE Human Resources Office. Employees shall be provided a copy for their records.

The ADE Human Resources Office shall create procedures to include an introduction to the Code of Ethics in new employee orientation sessions within 30 days of implementation of this policy. All employees receiving orientation shall sign and date the last page signifying that they have been provided a copy of the Code of Ethics.

During their annual performance evaluation, employees must reaffirm that they have been made aware of the Code of Ethics by signing a Code of Ethics Annual Acknowledgement Statement. This statement shall be included with each employee's performance evaluation that is sent to the ADE Human Resources Office upon completion of the evaluation.

The ADE Code of Ethics is included as part of this policy as Attachment A.

The ADE Code of Ethics Annual Acknowledgement Statement is included as part of this policy as Attachment B.

Background Checks

Prior to extending job offers to any applicant, a criminal history check shall be obtained from the Arkansas State Police. Other background check agencies may also be used. The Assistant Commissioner of Fiscal and Administrative Services shall submit requests to the Arkansas State Police through the Information Network of Arkansas on behalf of ADE.

Investigations of Fraud

The ADE is committed to a thorough investigation and shall conduct an internal investigation of all complaints of occurrences of alleged ethical violations, fraud, waste and abuse brought to its attention. In accordance with the Arkansas Financial Management Guide, the Department of Finance and Administration (DFA) Office of Accounting's Internal Audit Section will be responsible for coordinating all investigations. This responsibility is in accordance with Governor's [Executive Order 04-04](#). The DFA Internal Audit Section is authorized to request assistance from ADE employees that have the experience required to assist or perform such investigations. Investigations will be conducted in a confidential manner. If investigations indicate that a loss of state funds has occurred, then the amount of loss shall be reported to the Division of Legislative Audit in accordance with Section [R1-19-4-2004](#) of the Arkansas Financial Management Guide. In addition, any loss of state funds involving criminal activity shall be reported to the Arkansas State Police for a criminal investigation.

ADE employees shall be protected against any form of retaliation, including discharge, for reporting in good faith occurrences of ethical violations, fraud, waste and abuse of government resources as stated in the Arkansas Whistleblower Act ([ACA 21-1-601 – 609](#)).

Allegations of ethical violations or fraud may be reported to the Arkansas State Employees' Fraud, Waste, and Abuse Report Center (1-800-952-8248) or to the DFA Office of Accounting - Internal Audit Section by telephone (682-0370). An employee may also choose to report ethical violations, fraud, waste or abuse by completing a Complaint Form, included as Attachment C to this policy. Complaint forms may be mailed directly to the ADE Human Resources Manager, Ms. Clemetta Hood, or to the ADE Controller, Mr. Ron Byrns, at the following address: #4 Capitol Mall, Little Rock, AR 72201, or to the DFA Internal Audit Section at the

following address:

Department of Finance and Administration
Office of Accounting/Internal Audit Section
1515 West 7th Street, Room 215
Little Rock, AR 72201

Evaluation of Anti-Fraud Processes and Controls

In accordance with Section [R1-19-4-505](#) of the Arkansas Financial Management Guide, ADE will reduce fraud opportunities by (1) identifying fraud risks, (2) mitigating fraud risks and (3) implementing preventive and detective internal controls.

The identification of fraud risks will be conducted through an agency-wide fraud risk assessment every two years. The initial agency-wide risk assessment will be completed by December 31, 2005, and every two years thereafter. ADE management will implement appropriate internal controls and change business processes when feasible to reduce fraud risks.

The DFA Office of Accounting's Internal Audit Section shall review the internal controls and changes made to business processes to determine if the control activities identified in the risk assessment are properly designed to mitigate the risk of fraud, waste and abuse of resources. This shall specifically include the internal control activities that are designed to prevent or detect fraud.

ARKANSAS DEPARTMENT OF EDUCATION Code of Ethics

The Arkansas Department of Education (ADE) Code of Ethics (Code) is the written document that supports the culture of ethical and efficient service to the citizens of the State provided by this department. The Code describes the behavior expected of employees that perform these services.

ADE - Code of Ethics

Employees of the ADE must comply with all applicable laws and regulations. The ADE will not condone employee conduct that either violates, or has the appearance of violating the law, including the ethical provisions. This includes receiving payments for illegal acts, indirect contributions, rebates or bribery.

If an employee is uncertain about the application or interpretation of any legal or procedural requirement, the employee shall ask for guidance from his or her immediate supervisor.

Conflicts of Interest

Employees of the ADE must perform their duties in an ethical manner. Employees must not use their position or knowledge gained from their position for private or personal advantage. [Arkansas Code Annotated \(ACA\) §21-8-304](#) lists certain activities that are ethically prohibited activities for state employees and officials. If an employee becomes involved in a situation that could be considered a prohibited activity, the employee shall immediately communicate all the facts to his or her immediate supervisor.

Outside Activities, Employment, and Directorships

Employees of the ADE shall avoid acquiring any business interest, engaging in outside employment or participating in any activity outside ADE that would conflict with his or her official duties.

Relationships with Clients and Suppliers

Employees must adhere to [ACA §19-11-705](#) in their relationships with clients and suppliers to avoid any conflict of interest. In addition, any employee who has or obtains any benefit from a state contract with a business in which the employee has a financial interest shall make a disclosure to the Director of the Department of Finance and Administration (DFA) in accordance with [ACA §19-11-706](#) and the Rules and Regulations for Implementing Governor's [Executive Order 98-04](#).

Gifts, Entertainment, and Favors

Employees must not accept entertainment, gifts, personal favors or preferential treatment that could influence, or appear to influence, their decisions in performing their job functions. Specific procurement law addressing gratuities is codified in [ACA §19-11-707](#) and included in the Procurement Law and Regulations promulgated by the Office of State Procurement.

Refer to Rules and Gifts issued by the Arkansas Ethics Commission for detailed rules on gifts at: http://www.arkansasethics.com/rules/Rules_on_Gifts.doc.

Kickbacks and Prohibited Commissions

Employees of the ADE must not receive kickbacks, prohibited commissions or other prohibited payments from third parties. Violations of this rule will result in imposition of the penalties provided by law. Specific procurement law addressing kickbacks and commissions is codified in [ACA §19-11-707](#) and [§19-11-708](#) and included in the Procurement Law and Regulations promulgated by the Office of State Procurement.

Organization Funds and Other Assets

Employees who have access to ADE funds in any form must follow the prescribed procedures for recording, handling, and protecting money as detailed in DFA's Financial Management Guide, other explanatory materials, or both. If an employee has knowledge of fraud or waste of public assets, the employee shall immediately advise his or her immediate supervisor.

Personal use of ADE funds or assets is strictly forbidden.

Organization Records and Communications

The ADE's books and records must reflect accurate and timely recording of all business transactions. Full disclosure of assets, liabilities, receipts and disbursements must be made.

Employees must not make or engage in any false record or communication whether internal or external, including but not limited to:

- False expense, attendance, production, financial, or similar reports and statements
- False advertising, deceptive marketing practices, or other misleading representations

Dealing With Outside People and Organizations

Employees must not use their position or affiliation with the ADE when communicating regarding matters not involving ADE business. Employees must not use organization identification, stationery, supplies or equipment for personal or political matters.

When communicating publicly on matters that involve ADE business, employees must not speak for the ADE on any topic, unless they are certain that the views they express are those of ADE management, and that it is the ADE management's desire that such views be expressed publicly.

ADE personnel shall coordinate public communication matters with the ADE Director of Communications unless direct communication in a public forum is unavoidable. The ADE Director of Communications is the official spokesperson for the ADE for issues to be communicated to the public.

When dealing with anyone outside ADE, including public officials, employees must take care not to compromise the integrity or damage the reputation of the ADE or any other entity.

Prompt Communications

Employees of the ADE shall respond promptly and accurately to all legitimate requests for information and complaints, regardless of the source, in accordance with privacy laws. Employees with questions regarding whether a request is legitimate, or whether it is permissible to release certain types of information, shall ask their supervisor or the ADE Director of Communications. (See the Privacy and Confidentiality Section below.)

Privacy and Confidentiality

When handling financial and personal information about customers or others with whom the ADE has dealings, observe the following principles:

1. Collect, use, and retain only the personal information necessary for ADE business. Whenever possible, obtain any relevant information directly from the person concerned. Use only reputable and reliable sources to supplement this information.
2. Retain information only for as long as necessary or as required by law. Protect the physical security of this information.
3. Limit internal access to personal information to those with a legitimate business reason to have the information. Use personal information only for the legitimate business purpose for which it was obtained. Release of any information to persons not involved with the stated business purpose shall be made by management in response to a Freedom of Information Act request. Any tax information that is confidential pursuant to [ACA § 26-18-303](#) shall not be disclosed, except as allowed by law.

Reporting Suspected Fraud

Employees of the ADE have a responsibility to report occurrences of ethical violations, fraud, waste or abuse of ADE resources that can be verified through investigation. Employees of the ADE shall be protected against any form of retaliation, including discharge, for reporting, **in good faith**, occurrences of ethical violations, fraud, waste or abuse of ADE resources as stated in the Arkansas Whistleblower Act ([ACA §21-1-601-609](#)). Investigations to substantiate reported allegations will be conducted in a confidential manner.

Allegations of ethical violations or fraud are to be reported in the following manner:

- 1) Internal reporting may be handled through either the ADE Human Resources Manager, Ms. Clemetta Hood (501-682-4209) or the ADE's Controller, Mr. Ron Byrns at (501-683-4740). See Attachment C for a Complaint Form.
- 2) Employees also have the option of reporting allegations and directly to the Arkansas State Employees' Fraud, Waste, and Abuse Report Center (1-800-952-8248) or to the Office of

Accounting - Internal Audit Section by telephone (682-0370). This may be done anonymously if that is the employee's preference.

- 3) A complainant may also choose to report fraud, waste or abuse by completing a DFA Internal Audit Complaint Form obtained at the following web site:

[DFA | Office of Accounting | Internal Audit | Fraud Reporting](#).

Complaint forms can be mailed directly to the Office of Accounting - Internal Audit Section at the following address:

Department of Finance and Administration
Office of Accounting - Internal Audit Section
1515 West 7th Street, Room 215
Little Rock, AR 72201

My signature on this document indicates that I have read and fully understand the prohibited activities and my responsibilities to the ADE as listed in this code of ethics.

Printed Name

Date

Signature

Office

DEPARTMENT OF EDUCATION - CODE OF ETHICS
ANNUAL ACKNOWLEDGEMENT STATEMENT

My supervisor/manager and I have reviewed and discussed the Arkansas Department of Education (ADE) – Code of Ethics. I understand that my signature on this document indicates that I have read and fully understand the prohibited activities and my professional and ethical responsibilities as an employee of the ADE, as described in the ADE - Code of Ethics.

Employee signature

Date

Supervisor/Manager signature

Date

***Note to Supervisor/Manager:** The review and discussion of the ADE – Code of Ethics is an annual requirement. This signed document shall be submitted to the ADE Human Resources Office along with the employee’s annual performance evaluation.*

COMPLAINT FORM
Arkansas Department of Education

For Internal Use Only

RECEIVED:
DATE
TIME

DETAILS OF SUBJECT:

COMPLAINANT: (Optional)
NAME
ADDRESS
HOME TELEPHONE #
EMPLOYMENT AGENCY /LOCATION
WORK TELEPHONE #

DETAILS OF COMPLAINT:

RECEIVED BY:

For Internal Use Only

ACTION TAKEN:

For Internal Use Only

11.15 Political Freedom

This law makes it unlawful for any public employer to discipline, to threaten to discipline, to reprimand either orally or in writing, to place any notation in a public employee's personnel file disciplining or reprimanding the public employee or to otherwise discriminate against a public employee because the public employee exercised the right to communicate with an elected public official or exercised a right or privilege as defined in Arkansas Code Ann. §§ 21-1-501 through 503.

Definitions

Elected public official: The Governor, Lieutenant Governor, Secretary of State, Treasurer of State, Auditor of State, Attorney General, Commissioner of State Lands, member of the Arkansas Senate and member of the Arkansas House of Representatives.

Public employee: Any person providing services for the State of Arkansas, a county, a municipal corporation, or any other political subdivision of this state for which compensation is paid.
Public employer: The State of Arkansas and each political subdivision of the State of Arkansas.

Public employer: The State of Arkansas and each political subdivision of the State of Arkansas.

Provisions

State employees shall not be prohibited from communicating with an elected public official concerning matters related to the employee's job, except for matters exempted under the Arkansas Freedom of Information Act, or from exercising a right or privilege under the Freedom of Information Act.

State employees shall not be subjected to discipline, threats of discipline, reprimands, either oral or written, or notations in their personnel files disciplining or reprimanding or otherwise be discriminated against, because the employee exercised the right to communicate with an elected public official or exercised a right or privilege under the Arkansas Freedom of Information Act.

A state employee who has intentionally made untrue allegations to an elected official concerning matters related to the employee's job may be subject to discipline.

A person who intentionally violates a provision is guilty of a Class A misdemeanor.

Revised July 22, 2015

Arkansas State Employees Association

[Http://www.sebco.org/](http://www.sebco.org/)

Arkansas State Employee Benefits

<http://www.arbenefits.org/>

Arkansas Teacher Retirement

www.atrs.gov

OPM Policies and Procedures

<http://www.dfa.arkansas.gov/offices/personnelManagement/policy/Pages/default.aspx>