

Tier 1 Annual Update

School Laws of Arkansas

Ethics

2011-2012 School Year

CASBO Class SM401A

A.C.A. 6-20-2204

Required Tier 1 Training

- Superintendent, Education Service Cooperative Director, Open-enrollment public charter school director, General Business Manager.
- 12 hours of initial training.
- 4 hours of annual update.

A.C.A. 6-20-2204

Required Tier 1 Training-Cont'd

- ADE has approved the following AASBO courses for the 12 hours of initial training:
 - SF101A, Revenues
 - SF101B, Expenditures
 - SM102, Ethics and Audit Compliance
 - PS101, Introduction to Purchasing
 - SM401A, School Management Issues & Updates
 - SF401A, School Finance Issues & Updates

A.C.A. 6-20-2204

Required Tier 1 Training-Cont'd

- If employed by July 1, Tier 1 training must be completed by December 31 of the same calendar year.
- If employed after July 1, Tier 1 training must be completed by December 31 of the following calendar year.
- Failure to complete the required training by December 31 shall constitute an accreditation citation.

A.C.A. 6-20-2204

Required Tier 1 Training-Cont'd

- If a person fails to obtain the required training by December 31 and fails to cure the deficiency by March 1 of the following calendar year without filing a request for an extension as determined from the records of ADE, that person shall be unable to continue in his or her position.

A.C.A. 6-20-2204

Required Tier 2 Training

- Four hours of annual training for employees who are involved in the process of recording and/or reporting of financial transactions but:
 - Do not make decisions about selecting codes, or
 - Have a limited number of codes that they can use
- School district trainers are required to attend Tier 1 training.
- Training materials should be based on Tier 1 material and focused on the specific needs of school district employees.

A.C.A. 6-20-2204

Required Tier 2 Training-Cont'd

- Maintain files and records indicating all employees who are required to obtain and who have completed Tier 2 training.
- Provide ADE with assurance statement regarding the completion of Tier 2 training by the required individuals.

A.C.A. 6-20-2204

Sanctions-Tier 1 & 2

- Standards citation-Tier 1 only, school districts and open-enrollment charter schools
- Admonishment-Tier 1 only, education service cooperatives
- Fiscal distress-Tier 1&2, school districts and open-enrollment charter schools
- Sanction-Tier 1&2, education service cooperatives

Acts of 88th General Assembly- First Regular Session of 2011

- Convened January 10th
- Adjourned April 27th
- 13 new Senators (37%)
- 46 new Representatives (46%)
- 2235 bills filed (1231 House, 1004 Senate)
- 1242 bills enacted
- ADE has identified 133 Acts that affect K-12 Education (11%)

Acts of 88th General Assembly- First Regular Session of 2011-Cont'd

- ADE has identified 133 Acts that affect K-12 Education (11%)-Cont'd:
 - 28 General Education Acts
 - 22 Appropriation Acts
 - 19 Teacher Retirement Acts
 - 17 Fiscal Acts
 - 11 District Personnel Acts
 - 12 State Agency Acts

Acts of 88th General Assembly- First Regular Session of 2011-Cont'd

- ADE has identified 133 Acts that affect K-12 Education (11%)-Cont'd:
 - 6 Professional Development Acts
 - 5 Legal Acts
 - 4 Facilities/Transportation Acts
 - 3 School Health Acts
 - 3 Board/Commission/Task Force Acts
 - 2 Consolidation/Annexation Acts
 - 1 Licensure/Recruitment Acts

Act 37

- A driver of a motor vehicle shall not use a handheld wireless telephone while operating a motor vehicle when passing a school building or school zone during school hours when children are present and outside the building, except for an emergency purpose.

Act 46

- Extends for two years the provision that each public school district provide a common spring break.
 - 5 consecutive school days beginning on the Monday of the 38th week of the school year.
 - Spring break not required but if it is scheduled, it must be during the 38th week.

Act 65

- First day of school year for student attendance:
 - On or after the Monday of the week in which August 19th falls.
 - Not earlier than August 14th.
 - Not later than August 26th.
 - For 2011-2012 earliest day for student attendance is Monday, August 15th.
- Amends A.C.A. 6-10-106.
- Year-round calendar still allowed by 6-10-108.

Act 166

- Establishes framework for the Positive Youth Development Grant Program:
 - Competitive grants for research-based after-school and summer programs. (unfunded)
 - ADE to develop rules (with assistance from Division of Child Care and Early Childhood Education).
 - Preference to applications developed collaboratively by schools and community based programs.

Act 204

- Protects student athletes from unscrupulous actions by agents.
- Notice shall be provided by agent to education institution prior to contacting student-athlete.
- Class D felony to provide goods or services to student-athlete in exchange for a contract.
- Agent registration can be revoked for up to 5 years for violations of this law.

Act 266

- Changes definition of “Miscellaneous Funds” used for the calculation of bonded debt assistance to be consistent with the definition of miscellaneous funds used for the calculation of foundation funding per A.C.A. 6-20-2303(11).

Act 288

- Amends current school district textbook requirements to include digital resources.

Districts may provide instructional materials in digital format in lieu of traditional textbooks.

Act 433

- Appropriates \$300,000 for School Bus Safety Equipment Grant Program.
 - Continues the grant program established by Act 1207 of 2009 to provide school districts with safety equipment for school buses. (cameras and electronic warning devices for example).
 - Administered by Division of Academic Facilities and Transportation.

Act 565

- Defines “termination” as it applies to eligibility for ATRS retirement:
 - Member’s employment has ended at all system-covered employers.
 - A complete severance of the employer-employee relationship has occurred at all system-covered employers.
 - The member has ceased performing any employment services for any system-covered employer, except for uncompensated functions related to the transfer of the duties or the transfer of the position of the member.

Act 565-Cont'd

- Defines “termination” as it applies to eligibility for ATRS retirement-cont'd:
 - Member has followed normal retirement procedures for resigning from the system-covered employer unless involuntarily terminated before the member’s effective date of retirement.
 - All system-covered employers have paid or have initiated the process to pay all accumulated benefits such as annual leave and sick leave to the member by the effective date of retirement.

Act 565-Cont'd

- “Termination” as it applies to eligibility for ATRS retirement does not mean:
 - Taking a leave of absence.
 - Performing any job duties or service without remuneration, except for the functions related to the transfer of duties or the transfer of the position itself.

Act 565-Cont'd

- Providing volunteer activities at a system-covered employer that does not have the effect of holding a position open for the member during a termination separation period does not mean that the member is not terminated.
 - “Termination Separation Period” means the time from member’s effective date of retirement until the date that the member is no longer prohibited by state law from returning to work at a system-covered employer.

Act 586

- Establishes a superintendent mentoring program for first-year Arkansas superintendents.
- Shall be completed within 12 months of obtaining employment as a superintendent in order to maintain superintendent's license.

Act 613

- Pertains to investigations of suspected child maltreatment by a law enforcement officer or DHS investigator:
 - Prohibits the notification of a parent, guardian, custodian, or person standing in loco parentis if the person is named as an alleged offender.
 - Investigator shall provide the school with written documentation that notification is prohibited.
- Amends A.C.A. 6-18-513 which is applicable to schools and school districts.

Act 633

- County treasurer to provide an annual report by January 31 to:
 - State Treasurer
 - Department of Education
 - Superintendent
- Report to contain annual summary of all proceeds generated by ad valorem taxes and distributed to the school district.
- Information will be used to make the 98% URT collection rate calculations.

Act 739

- Establishes performance ratings for education service cooperatives.
 - Each ESC shall be evaluated during the 2012-2013 school year and at least once during each 5-year period.
 - Rated 1-5 with “5” excellent and “1” in need of immediate improvement.
 - Rating of “1” two consecutive year will result in loss of base funding or take over by ADE.

Act 770

- Requires educators to receive teen suicide awareness and prevention in-service training.
 - 2 hours once every 5 years.
 - Counts toward 60 hours of Professional Development.
 - May be accomplished through self-review of ADE approved materials.

Act 772-Jonathan's Law

- Named for elementary student killed in January 2011 when a soccer goal tipped over on him.
- Act requires soccer goals in a public recreation area, including sports fields and school playgrounds, to be anchored.
 - Guidelines by U.S. Consumer Product Safety Commission; or
 - Guidelines adopted by the Arkansas Department of Health

Act 784

- Adds “school counselor” to list of professionals that the Child Abuse Hotline will accept a report of injury to a child’s intellectual, emotional, or psychological development.
 - As evidenced by observable and substantial impairment of a child’s ability to function normally.

Act 835

- Student Discipline Policies to prohibit wearing of clothing that exposes:
 - Underwear
 - Buttocks
 - Breast of female
- Not applicable to costume or uniform worn while participating in school-sponsored activity or event. ?

Act 871-40% Pullback

- Beginning with 2011-2012 school year:
 - 40% will be reduced to 36% and another 4% per year until it is completely eliminated.
 - Property tax revenue collected by June 30 shall be recorded as revenue in the year collected. (no deferral)
 - If actual collections by June 30 are less than the calculated Pullback amount, the difference may be accrued at June 30. (accrual allowed but not required)

Act 871-40% Pullback-Cont'd

- Any district may convert to cash basis for recognizing revenue from property taxes beginning with the 2011-2012 school year.
 - Cash basis will include funds on hand at the County Treasurer's Office at June 30 that are apportioned for the school district. (or that are in transit)
 - District will need to make a journal entry at year-end to record these funds as revenue and as taxes receivable.

Act 879

- Revamps CPEP and gives priority for approval and funding to a “postsecondary preparatory program” operated by a partnership between a school district and institution of higher education.
- Allows such programs to be operated during summer, Saturdays, and before/after school.
- Allows NSLA funding to be used to operate a postsecondary preparatory program.

Act 902-Supplemental Educational Services Transparency Act

- Supplemental service providers shall submit an annual report to ADE and to the school district where services were provided and post the report on the provider's web site:
 - Improvement in student achievement by race and gender.
 - Student attendance rates.
 - Funds received per student.
 - Total number and the amount of contracts held with school districts.
 - Total number of years services have been provided and the total number of students served for all years.
 - Results of parent satisfaction surveys.

Act 902-Supplemental Educational Services Transparency Act-Cont'd

- School district to include provider's report on its website.
- Annually ADE shall review the report of a provider before placing it on the ADE list of state-approved providers.
- ADE shall provide a link on its website for parents to access information concerning approved providers.

Act 906

- Parents of multiple siblings may request in writing that the school place the siblings in the same or separate classrooms.
 - Not later than the 14th day before the 1st day of school.
 - If siblings are assigned to the same grade level and school in pre-k through 6.
- School shall honor parent's request:
 - Unless it would require adding a class.
 - After 30 days school can change the requested placement (if proven to be disruptive).

Act 907

- Attempts to clarify Arkansas anti-bullying policies:
 - Bullying of a public school student or employee is prohibited.
 - School administrators shall promptly investigate, make a record of the investigation and any disciplinary action taken.
 - School district board shall adopt policies to prevent bullying.
 - School districts shall provide training.

Act 984

- School district may create and implement a program to authorize the parent of a child enrolled in the school district to act as a monitor on a school bus.

Act 985

- Requires school districts to update school policies when a law relating to public schools regarding child abuse is amended or added to the Arkansas Code.

Act 989

- ADE “clean-up” legislation.
 - Section 2 – Requires classified personnel policies to be posted on school district’s website.
 - Section 4 - Authorizes disbursement of funds by “electronic transfer” if initiated by the school district and authorized by the superintendent and board disbursing officer.
 - Section 12 & 13– Changes dates relating to accreditation violations so that any hearing before State Board will occur prior to June 30 rather than August 15.

Act 989-Cont'd

- ADE “clean-up” legislation-cont'd:
 - Section 22 - school day must average a minimum of:
 - 6 hours per day; or
 - 30 hours each week.
 - Section 23 – If a school district has available capacity in a state-approved intensive noncredit preparatory program after all students who have completed the 11th Grade and all high school graduates have been given the opportunity to participate, ADE may permit a student who has completed the 10th Grade to enroll in the program.

Act 989-Cont'd

- ADE “clean-up” legislation-cont'd:
 - Section 26 & 58– Rather than filing personnel policies with ADE, school districts must post them on their website by September 15 and, by September 15, provide ADE with the website address at which its current policies, including the salary schedule, may be found.

Act 1000

- Annual School Performance Report to include the number of students in grades 9-11 who took the ACT and who participated in CPEP, or some other similar college preparatory or remediation program.
- Annual School Performance Report shall be published on ADE web site and each school district's web site. (not required to be mailed)

Act 1002

- Requires school district to post parental involvement plan on web site.
- Requires ADE to periodically monitor each district's implementation of the parental involvement plan and to assess the plan's effectiveness.

Act 1006

- Revises various provisions related to public school facilities and school transportation:
 - Master Plans will now cover a 6-year period rather than 10.
 - New wording required on school buses reduced to: “Arkansas Law: Stop When Red Lights Are Flashing.”
 - Division may appeal to Commission a Review Board ruling that results in a greater level of state financial participation.

Act 1039

Foundation and Categorical Funding

- Foundation
 - \$6,144 for 2011-2012 (+\$121 per ADM)
 - \$6,267 for 2012-2013 (+\$123 per ADM)
- Alternative Learning Environment (ALE)
 - \$4,145 for 2011-2012 (+\$82 per ALE FTE)
 - \$4,228 for 2012-2013 (+\$83 per ALE FTE)
- English Language Learner (ELL)
 - \$299 for 2011-2012 (+\$6 per identified student)
 - \$305 for 2012-2013 (+\$6 per identified student)

Act 1039-Cont'd

Foundation and Categorical Funding

- Professional Development
 - \$51 for 2011-2012 (\$1 increase per ADM)
 - \$52 for 2012-2013 (\$1 increase per ADM)
 - Amounts are maximums
 - In previous years an amount of approximately \$9 per ADM was used for state-level programs such as AETN on line courses and the balance was distributed to school districts and open-enrollment charter schools.

Act 1118

- Amends current code regarding alternative learning environments.
 - If student in ALE for less than 20 days, ADE may provide funding to a school district based on actual number of days attended if the student:
 - Leaves the school district to transfer to another ALE; or
 - Is placed in a residential treatment program.

Act 1118-Cont'd

- ADE will develop measures of effectiveness for ALEs that measure the ALE's effect on students':
 - School performance.
 - Need for intervention.
 - Attendance and dropout rate.

Act 1124

- Amends the Arkansas Opportunity School Choice Act of 2004.
 - Opportunity school choice options under A.C.A. 6-18-227 and school improvement guidelines no longer subject to the race restrictions of the school choice law.
 - If in conflict with a federal desegregation court order, court order shall govern.

Act 1160

- Prohibits hazing in connection with initiation into or affiliation with an organization, extracurricular activity, or sports program.

Act 1172

- Clarifies how a school counselor's time shall be spent during the school year.
 - At least 75% of work time each month during the school year spent on direct counseling related to students.
 - No more than 25% of work time each month during the school year on administrative duties.

Changed each week to each month.

Act 1204

- Allows for the administration of Glucagon to a student who is suffering from Type 1 diabetes.
 - By trained volunteer school personnel designated as care providers in a 504 plan.
 - Trained to administer Glucagon to a child with Type 1 diabetes in an emergency situation.
 - Training by a licensed nurse employed by a school district or other healthcare professional.
 - Annual training required.

Act 1204-Cont'd

- Signed parental authorization required.
- The district, district employee, or trained volunteer shall not be liable for any damages resulting from his or her actions.

Act 1209

- Establishes the Arkansas Teacher Excellence and Support System (TESS).
 - All public schools required to conduct teacher evaluations using TESS beginning in 2014-2015.
 - Unless an alternate method is approved by ADE.
 - State Board of Education, by September 1, 2012 shall develop:
 - Evaluation framework.
 - Evaluation rubric.
 - All rules for implementation of this Act.

Act 1209-Cont'd

- September 2012 – September 2013:
 - All superintendents, administrators, evaluators, and teachers will be trained in TESS.
- 2013 – 2014 school year:
 - ADE shall implement a one-year pilot program using TESS in one or more school districts.

Act 1209-Cont'd

- The TESS evaluation rubric will use nationally accepted descriptors that consists of the following four performance levels:
 - Distinguished
 - Proficient
 - Basic
 - Unsatisfactory

Act 1209-Cont'd

- Half of teacher's PD hours required by law or rule shall be directly related to one or more of:
 - Teacher's content area.
 - Instructional strategies applicable to teacher's content area.
 - Teacher's identified needs.
- PD must be approved by evaluator.

Act 1213

- Requires school board member training to include how to read and interpret an audit report.
 - Training shall be by a person licensed to practice accounting in Arkansas and has prior experience in conducting a school district financial audit.
 - Training may be conducted by the Division of Legislative Audit at a statewide or regional meeting attended by multiple school districts.

Act 1214

- Requires athletic coaches to complete training on the recognition and management of:
 - A concussion, dehydration, or other health emergency.
 - An environmental issue that threatens the health or safety of students.
 - A communicable disease.
- Training required every three years as part of annual professional development.
- Act extends Legislative Task Force on Athletic Training through December 31, 2012.

Act 1215

- Clarifies law on teacher sick leave by defining “month or major portion thereof” as meaning twelve or more working days in a calendar month. Working days to include all PD days required by the school district that count towards the annual 60 hours required for a teacher.
- Requires a school district to credit one day of sick leave to a teacher if the teacher used one day of sick leave on a mandatory PD day and made up the missed mandatory PD day on a non-contract day.
- Per A.C.A. 6-17-1204 a teacher shall be credited a minimum of one day of sick leave for each “month or major portion thereof” for which they are contracted.

Act 1220

- Establishes requirements for the carryover of state categorical funds.
 - Beginning with the 2011-2012 school year a school district shall spend a minimum of 85% of its annual NSLA allocation.
 - A district with an NSLA balance in excess of 15% of the current allotment shall reduce its total NSLA balance by at least 10% each year so that by June 30, 2022, a district has a balance of no more than 15% of current allocation.
 - Districts can ask for a one-year waiver from ADE in “unusual and limited circumstances.”

Act 1220-Cont'd

- Beginning with the 2011-2012 school year, if the total aggregate balance of all state categorical funds exceed 20% of current year allocations at June 30, the school district shall reduce the total balance by 10% each year until the aggregate balance is no more than 20%.
- Failing to comply may result in ADE withholding the amount required to be spent from the following year's allocation.
 - ADE may redistribute withheld amounts to other districts.

Act 1220-Cont'd

- Adds to the list found in A.C.A. 6-20-2305 of allowable uses of NSLA funds (shall include but not limited to)
 - District cost of Provision 2 of the USDA federal child nutrition program. (To the extent necessary to provide school meals without charge to all students.)
 - Expenses directly related to funding a longer school day and/or a longer school year.
 - Partnering with higher education institutions to provide student remediation of high school students so they are college and career ready upon graduation.

Act 1220-Cont'd

- Teach for America professional development.
- Implementing components of the Arkansas Advanced Initiative for Math and Science.
- College and Career Coaches, as administered by the Department of Career Education.

Act 1223

- Amends provisions of current law concerning excessive student absences from public schools.
- Removes the term “unexcused” from the current language of “excessive unexcused absences.”
- Before a student accumulates the maximum number of absences allowed by policy, the parent or guardian may petition the administration for special arrangements to address the student’s absences.

Act 1223-Cont'd

- If special arrangements are granted by the school, these arrangements will be formalized into a written agreement of conditions and consequences for not fulfilling the requirements. Agreement to be signed by:
 - School administrator.
 - Parent or guardian.
 - Student.

Act 1231

- Allows student to receive high school graduation credit for $\frac{1}{2}$ unit of physical education and $\frac{1}{2}$ unit of health and safety for completing two semesters of a Junior ROTC program.

Act 1236

- Requires licensed personnel to receive training in recognizing the signs and symptoms of child maltreatment and the requirements of the Child Maltreatment Act (ACA 12-18-101).
 - Within 12 months of initial licensure.
 - Within 12 months of all subsequent license renewals.
 - Training may be obtained in-person or on-line.

For More New Law Information

- See AAEA web site at: <http://www.theaaea.org>
 - Resources
 - Presentations from Past Conferences
 - School Law Review Conference May 11 & 18
 - » Presented by Dr. Richard Abernathy and Scott Smith

Ethics-School Board Members

- A.C.A. 6-24-105 states that: “it is a breach of the ethical standards of this chapter for a board member to contract with the public educational entity the member serves if the board member has knowledge that he or she is directly or indirectly interested in the contract.”
- A public educational entity may not initially employ a board member’s family member during the member’s tenure of service for compensation in excess of \$5,000 unless the Commissioner of Education issues a letter of exemption approving the contract based on unusual and limited circumstances.
- Any family member employed before the board member’s tenure may continue in employment but may not be promoted if compensation will increase more than \$2500.

Ethics-School Board Members-Cont'd

- Family members may be employed as a substitute teacher, cafeteria worker, or bus driver for no more than 30 days per fiscal year.
- Non-employment contracts with a board member or family member of a board member are prohibited if the total transactions or contracts will total \$5000 or more during a fiscal year— unless the Commissioner of Education issues a letter of exemption based on unusual and limited circumstances.

Ethics-Administrators

- A.C.A. 6-24-106 states: “it is a breach of ethical standards of this chapter for an administrator to contract with the public educational entity employing him or her if the administrator has knowledge that he or she is directly or indirectly interested in the contract.”
- Family members of an administrator may be employed by the educational entity that the administrator serves without approval from the Commissioner of Education. (but cannot be initially employed as a disbursing officer without approval from the Commissioner)

Ethics-Administrators-Cont'd

- To contract with other public educational entities, an administrator shall first get approval from the board employing the administrator and then shall get approval from the Commissioner.

Ethics-Employees

- A.C.A. 6-24-107 states: “it is a breach of the ethical standards of this chapter for an employee to contract with the public educational entity employing him or her if the employee has knowledge that he or she is directly interested in the contract.”
- If the total transactions or contracts with an employee total \$5000 or more for a fiscal year, the contract(s) must be approved by the Commissioner.

Ethics-School Board Approval

- A school board's approval of a contract under 6-24-101 et seq. must be documented by a written resolution adopted after discussion in an open meeting.
 - Must state the unusual and limited circumstances that make the contract necessary.

Ethics-Approval by Commissioner

- To seek Commissioner's approval of a contract, an educational entity must send the resolution, along with any other relevant data, to the Commissioner via certified mail.
- The Commissioner, after reviewing the resolution and other data, will approve or disapprove the contract within 10 days of receipt of the resolution. (Increases to 20 days July 27, 2011 per Act 878 of 2011.)

Ethics-Approval by Commissioner- Cont'd

- If the Commissioner requests additional information in order to rule on a request, the Commissioner will approve or disapprove the contract within 10 days of receipt of the additional information. (20 days per Act 878 of 2011.)
- If the Commissioner does not respond within the specified number of days, the request is deemed to have been approved by the Commissioner.
- No approval may be granted for more than two consecutive fiscal years.

Ethics-Approval by Commissioner- Cont'd

- A.C.A. 6-24-105(b)(1)(ii) provides that the determination of “unusual and limited circumstances” shall be at the sole discretion of the Commissioner. Because of this, the Commissioner looks at each request on a case-by-case basis.
- If you have questions or need assistance with a request for an exemption, please call the ADE Attorney’s Office at 501-682-4227.

Ethics-Code of Ethics for Arkansas Educators

- Allegation – Any written and signed statement by any person with the Arkansas Department of Education, local school board, Arkansas State Board of Education, or public school superintendent of this state and subsequently filed with the Professional Licensure Standards Board (PLSB) claiming that an educator has breached one or more of the Standards of Professional Conduct as set forth in Rule. An allegation may also include a finding made in an audit report forwarded to ADE by the Arkansas Legislative Joint Auditing Committee pursuant to A.C.A. 6-17-426.

Ethics-Code of Ethics for Arkansas Educators-Cont'd

- Standards of Professional Conduct:
 - Standard 1: An educator maintains a professional relationship with each student, both in and outside the classroom.
 - Standard 2: An educator maintains competence regarding skills, knowledge, and dispositions relating to his/her organizational position, subject matter, and/or pedagogical practice.
 - Standard 3: An educator honestly fulfills reporting obligations associated with professional practices.
 - Standard 4: An educator entrusted with public funds and property honors that trust with honest, responsible stewardship.

Ethics-Code of Ethics for Arkansas Educators-Cont'd

- Standards of Professional Conduct-cont'd:
 - Standard 5: An educator maintains integrity regarding the acceptance of any gratuity, gift, compensation or favor that might impair or appear to influence professional decisions or actions and shall refrain from using the educator's position for personal gain.
 - Standard 6: An educator keeps in confidence secure standardized test material as well as information about students and colleagues obtained in the course of professional service unless disclosure serves a professional purpose or is allowed or required by law.

Ethics-Code of Ethics for Arkansas Educators-Cont'd

- Standards of Professional Conduct-cont'd:
 - Standard 7: An educator refrains from using, possessing and/or being under the influence of alcohol, tobacco, or unauthorized drugs while on school premises or at school-sponsored activities involving students.
- Ethical Violation is one involving acts or omissions on the part of an educator, when the educator knew, or reasonably should have known, that such acts or omissions were in violation of the Standards of Professional Conduct as set forth in Rule.
 - An ethical violation does not include a reasonable mistake made in good faith, or acts or omissions undertaken in reasonable reliance upon the advice of a supervisor.

Ethics-Code of Ethics for Arkansas Educators-Cont'd

- Repeat Audit Findings
 - Legislative Joint Audit Committee may refer an audit report of a school district to ADE if:
 - Audit report identifies a substantial issue of noncompliance with state or federal financial reporting requirements or other state or federal law or regulation; and
 - The same issue is identified in two consecutive audit reports.
 - ADE shall submit the audit report to PLSB and PLSB shall investigate.

Act 1045 of 2011

- Amends current law concerning enforcement of ethics violations by AR educators.
- Broadens the disposition options to include a “private letter of caution.”
- “Ethics Complaint” means a document that:
 - States facts constituting an alleged ethical violation of the code of ethics; and
 - Is signed under penalty of perjury by the person filing the ethics complaint.

Act 1045 of 2011-Cont'd

- Allows educator copies of documents pertaining to complaint.
- Sets specific timelines for investigation and appeal process.

Tier 1 Annual Update

Expenditure of Public Funds

Fiscal Accountability

School Finance

Accounting and Reporting

CASBO Class SF401A

Chart of Accounts-Expenditures

- Fund
- Source of Fund
- Function
- Location
- Program
- Subject Area
- Object

Fund

- Teacher Salary Fund
- Operating Fund
- Building Fund
- Debt Service Fund
- Dedicated M&O/Capital Outlay Fund
- Federal Fund
- Activity Fund
- Food Service Fund

Source of Funds

- Examples:
 - Student Growth Funding
 - Declining Enrollment Funding
 - Professional Development
 - Alternative Learning Environment
 - English Language Learners
 - National School Lunch Act-State

Function

- Examples:
 - Kindergarten Instruction
 - Elementary Instruction
 - Middle/Jr. High Instruction
 - High School Instruction
 - Office of the Principal
 - Guidance Services
 - Library/Media Services

Location

- The three-digit number that identifies the campus or other cost center where the goods and services are being used. The number for school campuses matches the ADE assigned LEA number.

Program

- A three-digit number pertaining to a plan of activities and procedures designed to accomplish a predetermined objective or set of objectives. Examples include:
 - Special Education
 - ALE
 - GT
 - Athletics

Subject Area

- A two-digit number not currently required by ADE. School districts, cooperatives and charter schools may use this code for their own purposes. However, state and/or federal reporting requirements may require designated subject area codes at some point in the future.

Object

- A five-digit number that describes the type of expenditure-Examples:
 - Salary
 - Employee Benefit
 - Purchased Service
 - Supplies and Materials
 - Capital Outlay

Budget Unit

- The 16-digit number made up of:
 - Fund(1-digit)
 - Source of Fund (3-digit)
 - Function (4-digit)
 - Location (3-digit)
 - Program (3-digit)
 - Subject Area (2-digit)
- The budget unit plus the 5-digit object code applies to every expenditure.

New Coding Requirements for 2011-2012

- Commissioner's Memo FIN-11-080, 4/1/2011
 - Revenues pertaining to foundation funding.
 - Savings from refunding outstanding bonds.
 - Amounts paid for financial audit services.
 - Pathwise Mentoring Grant.
 - Professional Quality Enhancement Teacher & Administrator Induction Program.
 - Payments from Operating Fund to Food Service Fund for ABC Pre-K and Provision 2 Differentiated Cost.

New Coding Requirements for 2011-2012-Cont'd

- Commissioner's Memo FIN-11-080, 4/1/2011-cont'd:
 - Federal Funds:
 - Medicaid General Health Services Fund
 - Medicaid for Preschool Fund
 - Medicaid Fund 6750
 - School-Based Mental Health
 - Title 1 Fund 6501-add function 1594 for Neglected Institutions

Coding for Foundation Funding

- Commissioner's Memo FIN-09-047, January 29, 2009, and FIN-10-008, July 22, 2011, contained financial coding requirements for 2009-2010 for revenues and expenditures specific to foundation funding.
 - Required all revenue pertaining to foundation funding, and all expenditures paid with that revenue to be coded to funds 1000, 1100-1199, 2000 and 2100-2199.
 - In response to a motion passed by the House and Senate Joint Education Committee on December 24, 2008 to determine and implement coding changes required in order to better compare school district expenditures with the components of the Adequacy Funding Matrix.

Coding for Foundation Funding-Cont'd

- The coding requirements for the 2009-2010 and 2010-2011 school years resulted in some revenue other than Foundation Funding included in the designated funds. (M&O above 25 mills, excess debt service, miscellaneous funds in excess of the calculated amount shown on the state aid notice.)
 - A calculation is necessary to determine the percentage of revenue in the designated funds that pertains to Foundation Funding and then prorate the expenditures based on that percentage.

Coding for Foundation Funding-Cont'd

- The coding requirement for 2011-2012 as specified in Commissioner's Memo FIN-11-080 will eliminate the need to prorate expenditures.
 - All property tax, state foundation funding and miscellaneous funds will be deposited in Fund 2001.
 - An amount exactly equal to the foundation funding amount will be transferred from Fund 2001 to Fund 2000.
 - No revenue will be posted in Funds 1000, 1100-1199, 2000 and 2100-2199.

Coding for Foundation Funding-Cont'd

- The amount to be transferred from Fund 2001 to Fund 2000 for next year will be \$6,144 times the 2010-2011 3QTR ADM.
- No effect on how school districts are now required to code expenditures.
 - See A-1 of appendix for copy of Adequacy Funding Matrix and Q&A regarding next year's coding requirement.

Indirect Cost Rates

- Commissioner's Memo FIN-11-079, April 27, 2011, provided Indirect Cost rates and information for 2010-2011.
- Indirect cost rate is a device for determining in a reasonable manner the proportion of indirect cost each program should bear.
- Indirect costs are those costs that are not readily identified with the activities funded by the federal grant or contract but are nevertheless incurred for the joint benefit of those activities and other activities and programs of the organization.
- Direct costs are those that can be identified specifically with a particular cost objective.

Indirect Cost Rates-Cont'd

- The Indirect Cost rate is calculated by dividing Indirect Costs, plus carryforward adjustment, by Direct Costs. All funding sources are used.
- Excluded costs are those that generally are one-time in nature or tend to distort normal annual operating expenses.
- Unallowable costs are those costs that are unacceptable as applied to federal grants and contracts whether applied directly to a grant or indirectly through the indirect cost rate.
- Expenditures from the second preceding fiscal year are to be used for the indirect cost allocation plan. For example, expenditures for fiscal year 2008-2009 must be used to compute the indirect cost rate for fiscal year 2010-2011.

Indirect Cost Rate-Cont'd

- Carryforward adjusts the calculated indirect cost rate to be applied in the current fiscal year by the difference between the anticipated indirect cost totals in the second preceding fiscal year and the actual indirect cost totals realized in the second preceding fiscal year.

Indirect Cost Rate-Cont'd

- **If a district can identify and isolate the first \$25,000 of a purchased service contract then it can include the first \$25,000 of that contract in total expenditures before applying the indirect cost rate. If a district is unable to identify and isolate the first \$25,000 of a purchased service contract, then that contract must be excluded from total expenditures before applying the indirect cost rate. The indirect cost rate can only be applied to the first \$25,000 of each purchased service contract.**

Maintenance of Effort (MOE)

- Commissioner's Memo FIN-11-068, February 18, 2011, provides information regarding the MOE requirement of programs authorized by the Federal Elementary and Secondary Education Act.
 - Purpose is to ensure that federal funds are not used to replace state and local funds.
 - Requires LEAs to maintain at least 90% of their level of expenditures for programs from state and local funds from one year to the next.

Maintenance of Effort (MOE)- Cont'd

- Expenditures do not include:
 - Community Services
 - Capital Outlay
 - Debt Service
 - Expenses incurred as a result of a presidentially declared disaster
 - Expenditures from funds provided by federal government

Maintenance of Effort (MOE)- Cont'd

- MOE can be met based on either aggregate or per student expenditures.
- ARRA SFSSF and Federal Jobs Funds may be counted as state and local funds for purposes of meeting MOE.
 - But when ARRA SFSSF and Jobs Funds are gone, state and local funds must replace them.

Maintenance of Effort (MOE)- Cont'd

- Failure to meet MOE requires loss of federal funds of an amount equal to the decline in MOE.
 - May seek waiver by demonstrating that the decline was the result of:
 - Exceptional or uncontrollable event; or
 - Drastic decline in financial resources.

Maintenance of Effort (MOE)- Cont'd

- Special Education (IDEA) has a 100% requirement on MOE. Exceptions include:
 - Voluntary departure, by retirement or otherwise, or departure for just cause, of special education personnel.
 - A decrease in the enrollment of identified children with disabilities.
 - The termination of the obligation to provide special education program to a particular child because the child has left the district, reached the age at which the LEA obligation has ended, or no longer needs special education services.
 - Termination of long-term costly expenditures, such as construction.

Athletic Expenditures

- Commissioner's Memo COM-11-055, May 17, 2011, provides the proposed amended rule governing revenue and expenditures of athletic programs. Public comments will be received through June 21 and a public hearing will be held June 20.
- Combines the rule governing athletic gate receipts and the rule governing athletic expenditures.
- See A-2 in appendix for copy of proposed rule.

Athletic Expenditures-Cont'd

- Changes method used to allocate the cost of facilities, facilities maintenance, property insurance and utilities.
 - Based on square footage rather than salaries.
 - Adjust building square footage by square footage required for physical education per the Arkansas School Facility Manual.
 - Report prepared by school district and approved by school board prior to submission to ADE. (Due September 15 by law)

Athletic Expenditures-Cont'd

- If Legislative Audit identifies a variance of 5% or more it is considered a material misstatement and results in an accreditation citation.
 - Per 8.06 of Rules Governing the Arkansas Financial Accounting and Reporting System and Annual Training Requirements.
- Probation results if material misstatement occurs for two consecutive years.
- However, Legislative Audit will only follow up on those districts having a variance of 10% or more.

Federal Education Jobs Fund

- Commissioner's Memo FIN-11-032, December 1, 2010, provides information and allocation amounts.
- For school-level employee compensation and benefits and other expenses, such as support services necessary to:
 - Retain existing employees
 - Recall or rehire former employees
 - Hire new employees
 - Implement salary increases and/or bonuses

Federal Education Jobs Fund-Cont'd

- Cannot be used for:
 - General administrative expenses (including operation of superintendent's office)
 - LEAs board of education
 - Salaries and benefits of district-level administrative employees
- Must be coded to Fund/Source of Fund 6519 and Program Code 056.

Nonrecurring Salaries (bonuses)

- Commissioner's Memo FIN-11-064, February 8, 2011, provides information related to nonrecurring salaries paid to certified (licensed) personnel per Ark. Code Ann. 6-20-412.
 - From revenues “not considered to be recurring sources of revenue.”
 - Federal Jobs Fund
 - Fund balances
 - Proceeds from sale of property

Nonrecurring Salaries (bonuses)- Cont'd

- Divided equally among certified personnel employed by the school district at the time of payment unless:
 - The school board and a majority of teachers agree to a different distribution.
- “Equal” means an equal dollar amount.
 - Not equal percentage
 - Not prorated based on days contracted or worked
 - Not prorated based on full-time or part-time status

Nonrecurring Salaries (bonuses)- Cont'd

- Act 989 of 2011 amended 6-20-412
 - Changed requirement that it be paid to certified personnel employed by the school district at the “time of payment” to employed by the school district at the time “approved by the board of directors of the school district”.
 - Removed requirement that a report be submitted to ADE and Legislative Audit.

ARRA Funds

- Must obligate funds by September 30, 2011!
- Must liquidate those obligated funds by December 30, 2011!
 - However, ADE will not have access to the federal drawdown system pertaining to ARRA funds after December 31, 2011. As a practical matter, funds should be liquidated no later than December 16, 2011, so ADE can reimburse them by December 31, 2011.

ARRA Funds-Cont'd

- Commissioner's Memo FIN-11-069, February 18, 2011, describes "period of availability" and the meaning of "obligation".
- Having the funds obligated by September 30, 2011, is essential. Otherwise the funds cannot be claimed.
- The meaning of "obligation" changes depending on the type of goods or services being acquired.

ARRA Funds-Cont'd

- Obligated is the date of a binding written commitment to acquire the property:
 - Real or personal property
 - Personal services by a contractor who is not an employee
 - Performance of work other than personal services

ARRA Funds-Cont'd

- Obligated is when the services are performed or received:
 - Personal services by an employee
 - Public utility services
 - Travel
- Obligated is when property is used:
 - Rental of real or personal property

ARRA Funds-Cont'd

- Findings by Department of Finance & Administration and/or Auditors
 - Davis-Bacon
 - Buy American
 - Not in plan
 - Failure to bid or otherwise follow state procurement laws(See FIN-11-043, 11-29-043)

ARRA Funds-Cont'd

- Findings by Department of Finance & Administration and/or Auditors-cont'd:
 - Must take corrective action or risk loss of funds.
 - If substantial compliance cannot be met, ARRA funds must be returned:
 - Returned funds will go back into district's allocation and can be used for allowable purposes if:
 - ARRA plan is amended
 - Funds are obligated by September 30, 2011

Sales Tax Exemptions

- School buses sold to Arkansas school districts. (A.C.A. 26-52-410(b))
- Sale of school buses that will be used exclusively by purchaser to provide school bus service for an Arkansas school district. (A.C.A. 26-52-410(c)).
- Sales of motor vehicles to public school districts in Arkansas. (A.C.A. 26-52-410(a))
- Sales of food in public school cafeteria and lunchrooms. (A.C.A. 26-52-410(3))

Sales Tax Exemptions-Cont'd

- Sales of textbooks, library books, or other items purchased by the State of Arkansas to be distributed free of any charge to public schools of Arkansas. (A.C.A. 6-21-411)
- Sales of tickets for admissions to athletic events and interscholastic activities at public and private schools in Arkansas.(26-52-412(a))
- Sales of sheet music, electronic software, maps, globes, charts, videotapes, DVDs, films and cassettes for use as instructional materials. (26-52-437)

Sales Tax Exemptions-Cont'd

- Sales of digital resources when purchased as instructional materials for Arkansas public schools. (Act 288 of 2011)

“Digital resources” yet to be defined. (As of February, 2011, Arkansas Department of Finance & Administration considered I-Pads as computer hardware and therefore taxable.)

Procurement

- A.C.A. 6-21-303 requires the school board to develop policies to outline the method for soliciting bids and allows the board to adopt other rules governing procurement.
- School boards may wish to develop rules that allow certain types of commodities and services to be bid for multiple years. (copiers, maintenance, custodial, substitutes, banking)
 - Include procedures for terminating and/or maybe an annual renewal process.
 - Include a clause that allows termination if future school board fails to budget funds to pay the contract.

Procurement-Cont'd

- Bid threshold for purchase of commodities is \$10,000.
 - Per 6-21-301 Commodities means: “all supplies, goods, material, equipment, machinery, facilities, personal property, and services, other than personal and professional services, purchased for or on behalf of the school district.”
 - Per 19-11-801(b), “competitive bidding shall not be used for the procurement of legal, financial advisory, architectural, engineering, construction management, and land surveying professional consultant services.
 - Per 19-11-801(c) may elect to not use competitive bidding for other professional services not listed in (b) with a 2/3 vote of board.

Procurement-Cont'd

- Bid Solicitation Exemptions (6-21-305):
 - Emergency
 - With written statement from superintendent
 - Commodities available only from federal government
 - Utility services regulated by state or federal agency
 - Used equipment and machinery (school buses +2 years)
 - Single source
 - With written statement from purchasing official
- See FIN-09-071, April 28, 2009***

General Business Manager Qualifications

- Applies to all school districts, open-enrollment charter schools, and education service cooperatives.
- A Chief Financial Officer or Business Manager or however titled:
 - Operates under the direction of superintendent
 - Meets minimum qualifications in ADE rule
 - Responsible for fiscal operations of entire entity
 - Person other than superintendent of charter/co-op director

General Business Manager Qualifications-Cont'd

- Must meet qualifications of a Certified Arkansas School Business Official (CASBO) based on the requirements established by the Arkansas Association of School Business Officials (AASBO) or be enrolled in the CASBO required courses of study.
 - 10 required courses and five electives
 - See AAEA website under AASBO

General Business Manager Qualifications-Cont'd

- Must complete at least 5 CASBO courses per year and must complete the 15 courses required within 3 years.
- Must renew certificate by completing at least 2 upper level CASBO courses per year after the date of certification.
- GBM failing to complete certification cannot function in that role until certification requirements are met. District/charter/co-op must appoint another person to the position and that person must meet qualifications.

School District Treasurer

- A.C.A. 6-13-701 authorizes a district or charter school to appoint a treasurer.
- Must be appointed at a regular board meeting.
- Must execute a Certificate of Appointment which must be filed with the County Clerk, the County Treasurer, and the Director of the Department of Finance and Administration.
- Serves until board appoints a new treasurer and files a new Certification of Appointment.

School District Treasurer-Cont'd

- Duties are outlined in A.C.A. 6-13-701(e):
 - Receive and disburse funds. Issue receipts for funds received and maintain a duplicate.
 - Record all transactions in APSCN.
 - Provide monthly statement of financial condition to board.
 - Submit annual statement of finances to board in July each year.
 - Make required financial reports to ADE.

School District Treasurer-Cont'd

- Duties are outlined in A.C.A. 6-13-701(e)-cont'd:
 - Not have an interest, directly or indirectly, in any contract made by the district or charter school board.
 - Make financial records available for inspection by any district taxpayer.
 - Perform all duties imposed by law upon school district treasurers and be subject to all regulations.

School District Treasurer-Cont'd

- Disbursement of funds shall be made by treasurer only upon:
 - Checks or warrants signed by disbursing officer of district or charter school board and superintendent or charter school director; or
 - Electronic transfer of funds if electronic transfer is:
 - Initiated by the district or charter school; and
 - Authorized in writing by both the board disbursing officer and superintendent or charter school director.

School District Treasurer-Cont'd

- Treasurer shall have on hand as evidence of authority for disbursement approved:
 - Invoices;
 - Payrolls that conform with written contracts on file; and
 - Other appropriate documentation that indicates authority for disbursement.

School District Treasurer-Cont'd

- Fraudulent use of district/charter school funds by a treasurer is a Class C felony.
- Upon conviction, restitution to be made by treasurer is double the amount taken.

See A-3 and A-4 in appendix for sample “Certificate of Appointment” compliments of Dr. Bobbie Davis and Arkansas Public School Resource Center.

Special Needs Funding Rule

- Rule Governing the Distribution of Student Special Needs Funding and the Determination of Allowable Expenditures of Those Funds—Amended July 2010.
 - State Categorical Funds
 - National School Lunch Act (NSLA)
 - Alternative Learning Environment (ALE)
 - English Language Learners (ELL)
 - Professional Development

Child Nutrition Charge Policies

- Bad debts are a non-allowable expenditure in the National School Lunch Program and After School Snack and Breakfast Programs according to Cost Principles in OMB Circular A-87.
- USDA regulations do not require districts to provide meal when students who are ineligible for free meals do not have money to pay for meal. (However not feeding a child because they can't pay may not be an acceptable option for a district.)
 - Districts should adopt a written policy to address this problem.
 - Policy may differ depending on grade level.

Child Nutrition Charge Policies-Cont'd

- Policy must be communicated to both parents and students at the beginning of the year.
- Policy should have special provisions for handling pre-primary, young primary, and disabled students.
- Parent notification system regarding non-payment must be implemented in a way that does not embarrass the child.

Child Nutrition Charge Policies-Cont'd

- District decision whether to:
 - Extend credit to students
 - Food Service Fund cannot absorb loss for failure to pay.
 - With or without credit limit.
 - Provide an alternate meal
 - Not reimbursable so cost must be absorbed by district.
 - Not defined in federal regulations but regulations do state that schools must provide nutritious and well balanced meals to all the children they serve. (Title 7 CFR Part 210.10(a)(1))
 - Deny meal.

Audit Findings for 2009-2010

- Findings based on 71% of audits having been reviewed by ADE. (192 of 272)
 - 53 had no findings (28%)

Audit Findings for 2009-2010-Cont'd

Findings in Rank Order:	<u>Findings</u>
– Segregation of duties	110
– Purchases not budgeted correctly	23
– Buy American	21
– Davis-Bacon	17
– Federal cost principals (time certifications)	15
– Misstatements missed by internal controls	14
– Unapproved ARRA spending or transfers	10

Audit Findings for 2009-2010-Cont'd

Findings in Rank Order-cont'd:	<u>Findings</u>
– Child Nutrition inaccurate record keeping	6
– Fixed assets not recorded in inventory	4
– Incorrect employee payroll	3
– Failure to get bid or performance bond	2
– Bank Reconciliations (accuracy/timeliness)	2
– Misappropriation of funds	1
– 40% Pullback	1
– Undisclosed transactions with employee	1
– Overspent Title 1 funds	1

Audit Findings for 2009-2010-Cont'd

- Specific findings included:
 - Failure to record Accounts Payable of \$277,457 and Accounts Receivable of \$398,629.
 - Failure to record interest earned on CD.
 - Salary schedules do not reflect actual pay practices.
 - Personnel contracts not handled properly and in a timely manner.
 - District did not budget \$119,601 for an instructional facilitator.

Audit Findings for 2009-2010-Cont'd

- Specific findings included:
 - District paid \$5,750 to board member's spouse as substitute for 72.5 days. No board resolution or ADE approval.
 - Summer school payroll not processed through APSCN.
 - Overtime sheets not adequately maintained and no approval of overtime prior to occurrence.
 - Incorrect nonrecurring bonus procedures used by district.

Audit Findings for 2009-2010-Cont'd

- Specific findings included:
 - Child Nutrition Provision 2 requirements for district were not met.
 - District did not maintain verification of Child Nutrition eligibility for Free/Reduced priced meals.
 - District reported labor costs in cafeteria of \$200,000. Actual labor costs were \$414,492.
 - Time certifications for Child Nutrition, Special Education, and Title 1 were not maintained.
 - Failure to properly maintain equipment inventory.

Audit Findings for 2009-2010-Cont'd

- Specific findings included:
 - District paid staff members not approved in ARRA plan.
 - Title 1 expenditures exceeded Title 1 budget in ACSIP by \$24,000 more than 10% allowed.
 - Special Education expenditures exceeded Special Education budget for both ARRA and non-ARRA funds, by \$30,000 in one instance.
 - Special Education funds of \$138,052 were expended but were not budgeted.

Audit Findings for 2009-2010-Cont'd

- Specific findings included:
 - District did not contact applicable private schools for possible participation in federal programs.
 - Participation of teachers in needs assessment was not documented for audit.
 - District purchased computers and software costing \$549,107 without taking bids.
 - District used fictitious bids created by vendor to meet bid requirements.

Audit Findings for 2009-2010-Cont'd

- Specific findings included:
 - Used ARRA Stabilization funds for unallowable administrative costs. Questioned costs \$38,085.
 - District purchased \$8,000 in goods from business owned by board member without board resolution or disclosures.
 - District did not bid as required on new bus and construction. Contracts totaled \$274,000.

Audit Findings for 2009-2010-Cont'd

- Specific findings included:
 - Failure to comply with ARRA Buy American and/or Davis-Bacon requirements. Citations were for \$1,384,410, \$379,875, \$210,000, and \$104,135.
 - Failure to comply with debarment procedures for federal funds.
 - Failure to provide a performance bond on a construction contract for \$129,288.