



Division of Elementary and Secondary Education

Transforming Arkansas to lead the nation in student-focused education

Johnny Key
Secretary

April 15, 2022

Dr. Ivy Pfeffer
Deputy
Commissioner

Via Email

Stacy Smith
Deputy
Commissioner

Rebecca Miller-Rice
Rules Administrator
Bureau of Legislative Research
miller-ricer@blr.arkansas.gov

**State Board of
Education**

**Re: Proposed Rules Amendments (for Subcommittee Review): Division of
Elementary and Secondary Education Rules Governing the Arkansas Educational
Support and Accountability Act (AESAA)**

Ouida Newton
Poyen
Chair

Dear Ms. Miller-Rice:

Dr. Sarah Moore
Stuttgart
Vice Chair

Attached are proposed amendments to the DESE Rules Governing the Arkansas Educational Support and Accountability Act. This filing also contains a markup version of the rules, post-public comment summary, Financial Impact Statement, and public comments/Division responses. The Division respectfully requests that these proposed rules amendments be placed on the ALC Administrative Rules Subcommittee agenda.

Charisse Dean
Little Rock

Dr. Fitz Hill
Little Rock

On December 29, 2021, the State Board of Education approved these rules amendments for public comment release, with the Governor's Office approving them on January 13, 2022. Following public comment, no changes were made. On April 14, 2022, the State Board gave its final approval to these rules amendments.

Kathy McFetridge
Springdale

If you have any questions or require further information, please do not hesitate to call me at (501) 682-4234.

Steve Sutton
Marion

Respectfully submitted,

Adrienne Woods
Rogers

/s/ Lori Freno

**Dr. Beth Anne
Rankin**
Magnolia

General Counsel
Arkansas Department of Education

Randy Henderson
Blytheville

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT _____
DIVISION _____
PERSON COMPLETING THIS STATEMENT _____
TELEPHONE NO. _____ FAX NO. _____ EMAIL: _____

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

SHORT TITLE OF THIS RULE

1. Does this proposed, amended, or repealed rule have a financial impact? Yes No

2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
Yes No

3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If an agency is proposing a more costly rule, please state the following:

- a) How the additional benefits of the more costly rule justify its additional cost;

- b) The reason for adoption of the more costly rule;

- c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and

- d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Total _____

b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Total _____

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ _____

\$ _____

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ _____

\$ _____

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?
Yes No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

SUMMARY OF AMENDMENTS

ARKANSAS DIVISION OF ELEMENTARY AND SECONDARY EDUCATION RULES GOVERNING THE ARKANSAS EDUCATIONAL SUPPORT AND ACCOUNTABILITY ACT (AESAA)

The date in Section 5.02.5 of these rules was changed to reflect the date by which the Division must score and return statewide student assessments to school districts in accordance with Act 251 of 2021. Section 5.12 was changed to add the requirement of Act 319 of 2021 that the any public school that serves students in grades 10-12 must include in the already required college and career readiness assessment a career readiness assessment that leads to a nationally recognized work readiness certificate.

Post Public Comment

There were no changes made post public comment.

**DIVISION OF ELEMENTARY AND SECONDARY EDUCATION RULES
GOVERNING THE ARKANSAS SUPPORT AND ACCOUNTABILITY ACT (AESAA)
PUBLIC COMMENTS AND RESPONSES**

No public comments were received.

**ARKANSAS DIVISION OF ELEMENTARY AND SECONDARY EDUCATION
RULES GOVERNING THE ARKANSAS EDUCATIONAL SUPPORT
AND ACCOUNTABILITY ACT (AESAA)
Effective January 1, 2020**

1.00 Regulatory authority

- 1.01 These rules shall be known as the Arkansas Division of Elementary and Secondary Education (“Division”) Rules Governing the Arkansas Educational Support and Accountability Act (AESAA).
- 1.02 These rules are adopted pursuant to the authority of the State Board of Education under Ark. Code Ann. §§ 6-11-105, 6-15-2901 et seq., 25-15-201 et seq., ~~Act 930 of 2017, and Acts 83, 631, 754, 1082 and 1083 of 2019.~~
- 1.03 These rules are further adopted pursuant to the requirements of the State’s plan adopted under the Elementary and Secondary Education Act of 1965, Pub. L. No. 89-10, as reauthorized by the Every Student Succeeds Act, Pub. L. No. 114-95, 20 U.S.C. § 6301 et seq.

2.00 Legislative Findings and Purpose

- 2.01 The State Board of Education (“State Board”) notes that the Arkansas General Assembly finds that it is the State’s responsibility:
- 2.01.1 To provide a general, suitable, and efficient system of free public schools to the children of the state as required by the Arkansas Constitution, Article 14, § 1;
- 2.01.2 To provide all public school children with a substantially equal opportunity for an adequate education to meet the State’s duty set forth by the Arkansas Supreme Court in *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31 (2002);
- 2.01.3 To ensure that all students in the public schools of this state have a substantially equal opportunity to achieve and demonstrate academic readiness, individual academic growth, and competencies through the application of knowledge and skills in core subjects, consistent with state academic standards through a student-focused learning system; and
- 2.01.4 That all students in Arkansas public schools be taught by qualified and effective educators and that low-income or minority students not be taught at disproportionate rates by educators who are ineffective, inexperienced, or teaching a subject for which they are not currently licensed.

- 2.02 The purpose of these rules is to establish a comprehensive accountability system that:
- 2.02.1 Provides increasing levels of state assistance to help the local public school district board of directors to meet its burden of providing all public school children with a substantially equal opportunity for an adequate education, while allowing state intervention to occur if the local government chronically fails to meet the burden in spite of the state assistance, to meet the state's responsibility set forth by the Arkansas Supreme Court in *Lake View School District No. 25 v. Huckabee*, 351 Ark. 31 (2002), quoting *DuPree v. Alma School District No. 30*, 279 Ark. 340 (1983);
 - 2.02.2 Uses multiple measures of student academic achievement and growth;
 - 2.02.3 Allows flexibility for public schools and school districts to utilize local decision-making while maintaining quality in education; and
 - 2.02.4 Empowers the State and public school districts to assess the effectiveness of student-focused education using multiple factors, measures, and indicators of student achievement and school quality, rather than relying solely on an annual statewide assessment.
- 2.03 To promote the state's goal of providing all Arkansas public school students with qualified and effective educators, the Division will support educator effectiveness by implementing State Board-approved systems that will:
- 2.03.1 Encourage licensure and career advancement;
 - 2.03.2 Provide flexibility to hire well-qualified individuals;
 - 2.03.3 Provide personalized, differentiated professional support, growth and development opportunities for all educators; and
 - 2.03.4 Incentivize retention of effective teachers and leaders.
- 2.04 The State of Arkansas cannot be the sole guarantor of each individual student's success. Parents, students, families, educational institutions, and communities, as collaborative partners in education, play an important role in the success of individual students.

3.00 Definitions

For purposes of these rules:

- 3.01 “Academic Growth” means the calculation ~~to determine the change in student achievement over two or more moments in time using a value-added model of a student’s academic progress from one school year to the next, as measured by assessments and other criteria required by rule of the State Board of Education.~~
- 3.02 “College and career readiness” means the student has knowledge and skills in core academic disciplines and dispositions necessary to graduate prepared for college, career, and community engagement.
- 3.03 “College and career readiness assessment” means a set of ~~nationally recognized~~ criterion-referenced measurements of a student's acquisition of the knowledge and skills that the student needs to be college and career ready.
- 3.04 “Comprehensive support” means support required for a public school identified as being within the lowest-performing five percent (5%) of Title I schools as required under the Elementary and Secondary Education Act of 1965, Pub. L. No. 89-10, as reauthorized by the Every Student Succeeds Act of 2015, Pub. L. No. 114-95.
- 3.05 “District Test Coordinator (DTC)” means an individual designated by the superintendent to ensure that the district complies with state assessment requirements.
- 3.05.1 The DTC shall be an:
- 3.05.1.1 Educator, as defined in these rules, employed by the district;
 - 3.05.1.2 Individual employed by the district and under the direct supervision of an educator employed by the district; or
 - 3.05.1.3 Individual contracted by the district to complete all responsibilities of the DTC and under the direct supervision of an educator employed by the district.
- 3.05.2 The educator employed by the district assigned to supervise the DTC under 3.05.1.2 or 3.05.1.3, shall be responsible for ensuring that all provisions of applicable law and these Rules are followed.
- 3.06 "Educator" means a person holding a valid Arkansas standard teaching license, an ancillary license, a provisional license, a technical permit, or an administrator's license issued by the State Board.
- 3.06.1 "Educator" also includes a licensed or non-licensed classroom teacher or administrator employed in a position under a waiver from licensure.

- 3.07 “English language arts (ELA)” means the academic standards for English, reading, and writing.
- 3.08 “English Learners” are students whose primary or home language, other than English, has had a significant impact on the individual’s level of English language proficiency.
- 3.09 “Formative Assessment” means a planned, ongoing process used by all students and teachers during teaching and learning to elicit and use evidence of student learning to improve student understanding of intended disciplinary learning outcomes and support students to become more self-directed learners.
- 3.10 “Individualized Education Program (IEP)” means the same as in the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 et seq.
- 3.11 “Parent” means the same as in the Family Educational Rights and Privacy Act (FERPA), 34 CFR § 99.3.
- 3.12 “Professional development plan” means the same as in Ark. Code Ann. § 6-17-704.
- 3.13 "Public school" means:
- 3.13.1 A school operated by a public school district; or
 - 3.13.2 An open-enrollment public charter school, as defined in Ark. Code Ann. § 6-23-103.
- 3.14 “Public school district” means:
- 3.14.1 A geographic area that qualifies as a taxing unit for purposes of ad valorem property taxes under Ark. Code Ann. § 26-1-101 et seq. and Arkansas Constitution, Article 14, § 3, and is either:
 - 3.14.1.1 Governed by an elected board of directors; or
 - 3.14.1.2 Under the administrative control of the State Board or the Commissioner of Education in place of an elected board of directors; or
 - 3.14.2 An open-enrollment public charter school, as defined in Ark. Code Ann. § 6-23-103.
- 3.15 “School District Systems” means the operations and procedures that occur within a public school district.

3.15.1 Systems include, without limitation:

- 3.15.1.1 Academics;
- 3.15.1.2 Student Support Services;
- 3.15.1.3 District Operations and Fiscal Governance;
- 3.15.1.4 Human Capital;
- 3.15.1.5 Stakeholder Communication / Family and Community Engagement; and
- 3.15.1.6 Facilities and Transportation.

3.15.2 Systems are defined as a set of independent parts or actions that act together to make a more complex whole.

- 3.16 “Student success plan” means a personalized education plan intended to assist students to meet educational milestones towards graduation and achieving readiness for college, career, and community engagement.
- 3.17 “Student-focused learning system” means a system of learning in which collaborative and flexible decisions are made based on equity for each student with consideration given to academic measures, personal competencies, interests, aptitudes, aspirations, and needs.
- 3.18 “Superintendent” means the person responsible for oversight of all operations of the public school district.
- 3.19 “Targeted support” means support required for a public school identified as having a subgroup of students labeled “consistently underperforming” as required under the Elementary and Secondary Education Act of 1965, Pub. L. No. 89-10, as reauthorized by the Every Student Succeeds Act of 2015, Pub. L. No. 114-95.

4.00 Arkansas Academic Standards

- 4.01 The Division shall develop and the State Board shall approve Arkansas academic standards that define what students shall know and be able to demonstrate in each content area.
- 4.02 Instruction in all public schools shall be based on the Arkansas academic standards to prepare students to demonstrate the skills and competencies necessary for successful academic growth and high school graduation.

- 4.03 The Division shall establish a schedule for periodic review and revision of the Arkansas academic standards to ensure that the standards are rigorous and prepare students for college, career, and community engagement.
- 4.04 The Division shall include, at a minimum, the following elements in the periodic review and revision of the Arkansas academic standards:
 - 4.04.1 Review and input by Arkansas educators from elementary, secondary, and higher education;
 - 4.04.2 Review and input from Arkansas community members with professional experience related to the academic content area;
 - 4.04.3 Study and consideration of academic standards at the national and international level, as appropriate;
 - 4.04.4 Study and consideration of an evaluation of the academic standards from national groups or organizations, as appropriate; and
 - 4.04.5 Public dissemination of revised academic standards by posting on the Division's website.
- 4.05 The Division shall develop a transition timeline for the implementation of new Arkansas academic standards when new standards are approved.

5.00 Statewide Student Assessment System

- 5.01 The State Board shall approve and the Division shall implement a statewide student assessment system to be administered by Arkansas public schools on a schedule determined by the State Board.
- 5.02 The statewide student assessment system shall include:
 - 5.02.1 Assessments for kindergarten and grades one and two (K-2) as specified in subsection 5.06;
 - 5.02.2 Assessments for grades three through twelve (3-12) as specified in subsections 5.07 and 5.08;
 - 5.02.3 Assessments of English proficiency of all English Learners;
 - 5.02.4 Assessments to measure college and career readiness; and
 - 5.02.5 Valid and reliable assessments that provide scores available for district use by ~~July~~August 1 of each year.

- 5.02.5.1 The Division may authorize an extension of time to provide assessment scores as deemed necessary.
- 5.03 All public school districts shall comply with the requirements of the assessment system including field testing and any other requirements needed to establish fully developed assessments.
 - 5.03.1 A public school district that fails to comply with requirements placed on the public school district by the State Board pursuant to these rules is in probationary violation of the Standards for Accreditation of Arkansas Public Schools and School Districts and subject to action by the State Board.
- 5.04 Public school district boards of directors shall not establish school calendars that jeopardize or limit the valid testing and comparison of student learning.
- 5.05 All students enrolled in a public school district shall participate in the statewide student assessment system.

Kindergarten and grades one and two (K-2)

- 5.06 All public school districts shall administer a developmentally appropriate assessment approved by the State Board to all students in kindergarten, first grade, and second grade (K-2) in reading and mathematics.
 - 5.06.1 Students with disabilities shall participate in the K-2 assessment unless the student's IEP team determines that the student is unable to participate due to the student's disability.
 - 5.06.1.1 If the student's IEP team determines that the student is unable to participate due to the student's disability, the student's IEP shall include goals and periodic reviews to ensure the student is meeting expected growth and progress.
 - 5.06.2 English Learners, including those with less than one year in a U.S. school, shall participate in the K-2 assessment program.
 - 5.06.2.1 English Learners may access state approved accommodations provided such accommodations have been recommended by the student's language proficiency assessment committee (LPAC) and are used regularly in classroom instruction and assessment. Only those accommodations that do not interfere with the validity of the test may be used on the assessment.

Grades three through twelve (3-12)

- 5.07 All students in grades three through twelve (3-12) in which statewide assessments are administered, shall take the assessment(s) required for the student's respective grade on the date or within the testing window established by the Division.
 - 5.07.1 Assessments may measure, without limitation, English language arts, mathematics, and science.
 - 5.07.2 Required assessments may include field testing and any other requirements needed to establish fully developed assessments.
 - 5.07.3 Statewide student assessment data may be used for statewide accountability and reporting purposes.
- 5.08 All public school districts shall administer state required assessments to students in accordance with procedures established by the Division and specified in the applicable assessment administration manuals, materials and training.
 - 5.08.1 The Division may provide manuals, materials and trainings that are delivered electronically or in-person.

Students with Disabilities

- 5.09 Each student in the specified grades shall participate in the assessments according to the procedures established by the Division. A student shall participate in the Arkansas Alternate Assessment Program only upon the formal determination of the student's IEP team, as documented in the student's IEP.
 - 5.09.1 The IEP team shall determine whether participation in the standard state assessment program is appropriate for students with IEPs. Students with the most significant cognitive disabilities who cannot participate in the standard state assessments with the established accommodations and accessibility features shall participate in the Arkansas Alternate Assessment Program following the guidelines established by the Division.
 - 5.09.2 Students with disabilities may access state approved accommodations provided such accommodations have been determined necessary by the IEP team and are used regularly in classroom instruction and assessment. Only accommodations that do not interfere with the validity of the test may be used on the assessment.

- 5.09.3 A student who participates in the Arkansas Alternate Assessment program will take each of the required alternate assessments including English Language Arts, mathematics, and science.

English Learners

- 5.10 English Learners, including those with less than one year in a U.S. school, shall participate in the statewide student assessment system.
- 5.10.1 English Learners may access state approved accommodations provided such accommodations have been recommended by the student's language proficiency assessment committee (LPAC) and are used regularly in classroom instruction and assessment. Only those accommodations that do not interfere with the validity of the test may be used on the assessment.
- 5.11 An assessment of English Language Proficiency which measures the English Language Proficiency standards shall be administered annually.
- 5.11.1 All English Learners in grades kindergarten through twelve (K–12) shall participate in the English Language Proficiency assessment.
- 5.11.2 The Division shall establish student performance levels that indicate the English Learners level of English Language Proficiency.

College and Career Readiness (CCR)

- 5.12 A public school that serves ~~any~~ a student in grades ten through twelve (10-12) shall administer college and career readiness assessments, including a career readiness assessment that leads to a nationally recognized work readiness certificate, as determined by the State Board, to each student who chooses to take the assessment before he or she graduates from high school.
- 5.12.1 “College and career readiness assessment” means a set of nationally recognized measurements of a student's acquisition of the knowledge and skills that the student needs to:
- 5.12.1.1 Be successful in credit-bearing, first-year courses at an institution of higher education; or
- 5.12.1.2 Earn other postsecondary credentials including, but not limited to, industry recognized credentials or technical certifications that allow a student to embark on a career.
- 5.12.2 Students with disabilities should be encouraged to participate in the college and career readiness assessment.

- 5.12.3 State or federal funds may be used to administer college and career readiness assessments in addition to the required statewide high school assessment.
- 5.13 Public schools shall use the results from the college and career readiness assessment to:
 - 5.13.1 Inform student success plans;
 - 5.13.2 Assist students with course selection; and
 - 5.13.3 Assist with academic achievement and college and career readiness skills.
- 5.14 Districts may assess academic achievement and growth by other means in addition to the statewide required assessments at the district's expense.

The National Assessment of Educational Progress (NAEP)

- 5.15 Selected public schools shall participate in any and all components of the National Assessment of Educational Progress (NAEP).
 - 5.15.1 Any public school that fails to participate in the administration of any NAEP assessment shall be reported to the State Board and may be found in violation of the Standards for Accreditation of Arkansas Public Schools and School Districts and subject to action by the State Board.

Statewide Student Assessment System Administration

- 5.16 The Division shall establish and publish each school year, an assessment calendar that shall be strictly followed by public school districts unless a school district has received a written waiver from the Division due to a catastrophic occurrence.
- 5.17 The superintendent of each public school district shall designate a District Test Coordinator.
 - 5.17.1 The District Test Coordinator, serving as the designee of the superintendent, is responsible for ensuring that the provisions of applicable law and these Rules are followed.
 - 5.17.2 To ensure understanding of the administration of the State required assessments, district test coordinators and other appropriate public school personnel shall attend training sessions established by the Division.

- 5.18 The District Test Coordinator of each public school district is responsible for coordinating all state assessment activities at a local level, including without limitation:
- 5.18.1 Scheduling testing times of all affected grades and campuses according to the testing calendar developed by the Division;
 - 5.18.2 Ensuring that security is maintained as specified in the appropriate test administration materials and Division training;
 - 5.18.3 Ensuring that all district personnel involved in the testing have been properly trained as specified by the Division;
 - 5.18.4 Ensuring that all tests are administered to all students according to the procedures established by the Division and specified in the applicable assessment administration materials;
 - 5.18.5 Ensuring that all assessment documents and student identification information are properly and accurately coded;
 - 5.18.6 Attesting whether all students have participated in the appropriate grade-level assessment(s); and
 - 5.18.7 Ensuring that students participating in the administration of standard state assessments receive the appropriate, allowable accommodations documented in their IEP and have access to the needed accessibility features;
 - 5.18.8 Ensuring that all students enrolled in a state-tested grade are accounted for in the statewide student assessment system; and
 - 5.18.9 Ensuring that all personnel involved in testing and the use of test data are trained on the requirements of the Family Educational Rights and Privacy Act (FERPA, 34 CFR Part 99), the Student Online Personal Information Protection Act (SOPIPA, Ark. Code Ann. § 6-18-109), any other state or federal laws governing confidentiality of student data, and maintain the privacy of student data.
- 5.19 The superintendent of each public school district is responsible for the proper administration of the statewide student assessment system pursuant to Ark. Code Ann. § 6-15-2901 et seq. and these rules including any failure of the District Test Coordinator to fulfill all legal requirements and responsibilities.
- 5.19.1 To the extent that a public school district is determined to have knowingly failed to administer the provisions of applicable law or these Rules, the

superintendent's license is subject to probation, suspension, or revocation under Ark. Code Ann. § 6-17-410.

Test Security and Confidentiality

- 5.20 A violation of the security or confidential integrity of any test or assessment is prohibited.
- 5.20.1 Procedures for maintaining the security and confidential integrity of testing and assessment instruments and procedures shall be specified in the appropriate test or assessment administration instructions and training from the Division. Conduct that violates the security or confidential integrity of a test or assessment is defined as any departure from either the requirements established by the Division for the administration of the assessment or from the procedures specified in the applicable test administration materials or training.
- 5.20.2 A person who violates the security or confidential integrity of any test or assessment, or a public school or school district in which prohibited conduct occurs, may be sanctioned by the State Board in accordance with the Division of Elementary and Secondary Education Rules Governing Test Security, Testing Violations, and Testing Improprieties and the Division of Elementary and Secondary Education Rules Governing the Code of Ethics for Arkansas Educators, as appropriate.
- 5.21 District test coordinators, staff involved in test administration including technology support staff, test administrators, and test proctors of the state required assessments shall abide by the requirements of the security agreement developed by the Division. Public schools shall maintain signed copies of the agreement for three (3) years.
- 5.22 The superintendent or district test coordinator of each public school district shall develop procedures to ensure the security and confidential integrity of all assessment instruments and test items. The superintendent or district test coordinator is responsible for immediately notifying the Division in writing of conduct that violates the security or confidential integrity of an examination or assessment as outlined in the Division of Elementary and Secondary Education Rules Governing Test Security, Testing Violations, and Testing Improprieties.

Assessment Data

- 5.23 Public school districts shall utilize multiple measures of student learning, including but not limited to state and vendor provided reports from the statewide student assessment system, to inform the cycle of inquiry regarding school improvement.

- 5.23.1 Public school districts shall report district and school performance data to appropriate stakeholders and as otherwise required by law or rule.
- 5.23.2 Public schools shall provide individual student reports to parents or guardians no later than the first quarter of the school year following administration of the assessment.
- 5.24 All federal and state data privacy rules and regulations will be adhered to.
- 5.25 The scores for students attending the Arkansas School for Mathematics, Sciences, and the Arts (ASMSA) shall be included in the data reports to the public school district the student attended immediately prior to transferring to the ASMSA.
- 5.26 Annually, the Division shall establish and post on the Division's website, the process and timeline providing no less than 10 days, for a public school district to review data for accountability purposes.

Technical Advisory Committee

- 5.27 A Technical Advisory Committee composed of nationally-recognized experts and psychometricians shall be selected by the Commissioner of Education and shall advise the Division in technical matters pertaining to the validity, reliability, accuracy and fairness of their assessment and accountability system.

Student Performance Levels

- 5.28 The Division shall recommend and the State Board shall approve performance levels for each state required assessment administered to meet federal reporting requirements. The performance levels shall include skills and competencies necessary for a student to be college and career ready by the completion of high school.
 - 5.28.1 The Division shall recommend and the State Board shall approve performance levels for English language arts, mathematics, and science.
 - 5.28.2 The Division shall recommend and the State Board shall approve performance levels for the Arkansas Alternate Assessment Program for students with disabilities as part of the statewide student assessment system.
 - 5.28.3 The Division shall recommend and the State Board shall approve performance levels to indicate the level of English language proficiency of all English Learners.

6.00 Student-Focused Learning System

- 6.01 Public school districts shall implement a student-focused learning system designed to support and promote student success based on equity for all students through personalized learning.
- 6.02 A student-focused learning system considers, with the learner, various academic measures, personal competencies, interests, aptitudes, aspirations and needs when designing learning opportunities.
- 6.03 Public schools shall use statewide student assessment data and multiple measures to identify students' strengths and needs for achievement and academic growth.
 - 6.03.1 Multiple measures may include, but are not limited to, attendance, grades, classwork, demonstration of competency, formative assessment data, teacher observations, interest surveys, or other measures that are used to personalize learning for students.

Student Success Plans

- 6.04 Each student who enters the eighth (8th) grade shall have a student success plan developed by the end of the eighth grade (8th), by school personnel in collaboration with parents and the student that is reviewed and updated annually.
 - 6.04.1 The student success plan is a working plan that is dynamic and visited periodically by the student and an advisor or mentor to support the overall success of the student to graduate ready for postsecondary opportunities.
 - 6.04.2 The student success plan shall be documented in a format and manner that is accessible to the student.
- 6.05 The student success plan shall, at a minimum:
 - 6.05.1 Guide the student along high school pathways to graduation that shall prepare the student for postsecondary opportunities, including without limitation:
 - 6.05.1.1 Required coursework;
 - 6.05.1.2 Courses of interest; and
 - 6.05.1.3 Consideration for student's postsecondary plans using multiple measures to inform decisions about a pathway.
 - 6.05.2 Address accelerated learning opportunities which may include without limitation enrolling in coursework that would challenge the student

academically. Accelerated learning opportunities to be considered may include without limitation:

- 6.05.2.1 Advanced Placement, International Baccalaureate, and Concurrent credit;
- 6.05.2.2 Career pathways, apprenticeships, and internships;
- 6.05.2.3 Courses based on identified areas of academic strength;
- 6.05.2.4 Extracurricular opportunities such as music, band, athletics, scholastic competitions, and clubs; and
- 6.05.2.5 Other opportunities to enrich the student's success.

6.05.3 Address academic deficits and interventions which may include without limitation:

- 6.05.3.1 Courses based on identified areas of academic deficit;
- 6.05.3.2 Point-in-time remediation, credit recovery, and tutoring;
- 6.05.3.3 Additional learning supports and transitional coursework; and
- 6.05.3.4 Other opportunities to support the student's success.

6.05.4 Include college and career planning components based on a review of information appropriate for the student, including without limitation:

- 6.05.4.1 College and Career Readiness Assessment data;
- 6.05.4.2 Interest inventories;
- 6.05.4.3 College and career planning tools;
- 6.05.4.4 Industry recognized credentials or technical certifications; and
- 6.05.4.5 Other postsecondary preparations.

6.06 An IEP for a student with a disability, identified under the IDEA, 20 U.S.C. § 1400 et seq., meets the requirements of this section if the IEP:

- 6.06.1 Addresses academic deficits and interventions for students not meeting standards-based academic goals at an expected rate or level; and

6.06.2 Includes a transition plan that addresses college and career planning components.

7.00 Equitable Access to Excellent Educators

- 7.01 Public school districts are responsible for recruiting, hiring, retaining, and developing effective teachers and leaders by using programs provided by the Division, including without limitation:
- 7.01.1 The Teacher Excellence and Support System (TESS) including professional growth plans for teachers;
 - 7.01.2 The Leader Excellence and Development System (LEADS) including professional growth plans for leaders;
 - 7.01.3 Educator effectiveness opportunities for professional learning and career growth;
 - 7.01.4 Resources and technical assistance for district professional development plans, cultural responsiveness, and equity; and
 - 7.01.5 Recruitment and retention programs.
- 7.02 Each public school and school district shall ensure that its educators provide instruction that aligns with the academic standards established to prepare students to demonstrate the skills and competencies necessary for successful academic growth and high school graduation.
- 7.03 Each public school and school district shall report:
- 7.03.1 The data required by the Division to identify and evaluate educator effectiveness, in accordance with Arkansas law, including without limitation, professional qualifications, teaching assignment(s), professional development, and performance ratings during the required career summative evaluation year;
 - 7.03.1.1 The Division will use the data reported to calculate the rate at which low-income and minority students are taught by educators who are ineffective, inexperienced, or teaching a subject for which they are not currently licensed.
 - 7.03.2 Professional qualifications of educators through Cycle submissions; and

7.03.3 The number of teacher and leader career summative performance ratings for each category through the Teacher Excellence and Support System (TESS).

7.04 Public school districts whose data reflect disproportionality under these rules shall develop and implement strategies for equitable access within the district's support plan.

8.00 Levels of Support for Public School Districts

8.01 The Division shall provide differentiated levels of support to all Arkansas public school districts. The levels of support are cumulative and include:

8.01.1 Level 1 – general support

8.01.2 Level 2 – collaborative support

8.01.3 Level 3 – coordinated support

8.01.4 Level 4 – directed support

8.01.5 Level 5 – intensive support

8.02 The Division will determine the level of support the Division will provide to a public school district through a process of communication and consultation with the district to identify areas where support is requested or required for school improvement.

8.02.1 Annually, the Division shall review data for all students and defined subgroup populations to determine the level of support the Division will recommend to address the district's needs, including without limitation:

8.02.1.1 Public schools identified as in need of targeted or comprehensive support as defined by the Elementary and Secondary Education Act of 1965, Pub. L. No. 89-10, as reauthorized by the Every Student Succeeds Act of 2015, Pub. L. No. 114-95;

8.02.1.2 Fidelity of district implementation of school-level improvement plans and district support plans;

8.02.1.3 Public school and district data obtained from the Division's comprehensive information systems; and

8.02.1.4 Fidelity of district implementation of directives from the Division or State Board.

- 8.02.2 After a review of data, the Division, in consultation with the superintendent, school board member(s), or appropriate school district personnel shall identify the level of support appropriate to meet the needs of the district.
- 8.02.3 At any time, a district may request specific support from the Division in addition to the current level of support being provided.
- 8.02.4 The Commissioner of Education (“Commissioner”) may, after an initial determination is made, request Division staff to evaluate a district to determine if evidence exists that additional support is needed. The Division may recommend additional support as identified from the evaluation.
- 8.03 The Division shall provide level 3 – coordinated support, in collaboration with the public school district’s educational service cooperative, to a public school district in which forty percent (40%) or more of the public school district’s students score “in need of support” on the state’s prior year summative assessment for reading.
- 8.04 The Division shall provide level 4 – directed support to a public school district in which fifty percent (50%) or more of its student score “in need of support” on the state’s prior year summative assessment for reading.
- 8.05 Annually, a public school shall engage stakeholders to develop or revise the school-level improvement plan. Annually by May 1, a public school shall submit to its public school district, a school-level improvement plan for approval by the public school district and public school district board of directors for implementation in the following school year.
- 8.05.1 School-level improvement plans shall follow a continuous cycle of inquiry and at a minimum:
- 8.05.1.1 Establish goals or anticipated outcomes based on an analysis of students’ needs;
 - 8.05.1.2 Identify student supports and evidence-based interventions and practices to be implemented;
 - 8.05.1.3 Describe the professional learning necessary for adults to deliver the supports or interventions;
 - 8.05.1.4 Describe the implementation timeline for monitoring of the interventions and practices for effectiveness;

- 8.05.1.5 Describe the timeline and procedures for evaluation of the interventions and practices for effectiveness; and
- 8.05.1.6 Include a literacy plan that includes, without limitation, a curriculum program and a professional development program that are:
 - 8.05.1.6.1 Aligned with the literacy needs of the public school district; and
 - 8.05.1.6.2 Based on the science of reading as defined by Ark. Code Ann. § 6-17-429(k)(1).
- 8.05.2 School-level improvement plans shall be posted on the public school district’s website, under state-required information, by August 1 of each year.
- 8.05.3 The public school and public school district shall continuously monitor school-level improvement plans for implementation fidelity and progress throughout the year of implementation.
 - 8.05.3.1 Documentation of the monitoring shall be made available to the public school district board of directors.
- 8.05.4 School-level improvement plans shall be analyzed, evaluated, and revised at least annually by the public school including stakeholder engagement and feedback.
 - 8.05.4.1 Documentation of the annual review shall be included as part of the school-level improvement plan for the following school year.
- 8.06 Annually by September 1, a public school district receiving level 2 – collaborative support shall develop a district support plan.
 - 8.06.1 A public school district receiving level 2 – collaborative support shall submit its district support plan to the Division when requested by the Commissioner in order for the Division to provide additional support to the district.
- 8.07 Annually by September 1, a public school district receiving level 3 – coordinated support, level 4 – directed support, or level 5 – intensive support shall develop a district support plan utilizing the form required by the Division and submit the plan to the Division for approval.

8.07.1 A public school district receiving level 4 – directed support shall work with the Division to develop its’ district support plan.

8.07.2 A public school district receiving level 5 – intensive support shall work with the Division to develop its’ district support plan, and shall submit the plan to the State Board for approval.

8.07.3 A district support plan shall follow a continuous cycle of inquiry and at a minimum:

8.07.3.1 Specify the support the public school district will provide to public schools identified pursuant to the Elementary and Secondary Education Act of 1965, Pub. L. No. 89-10, as reauthorized by the Every Student Succeeds Act of 2015, Pub. L. No. 114-95;

8.07.3.2 Collaboratively establish priorities regarding goals or anticipated outcomes with the school or schools, including feeder schools as applicable;

8.07.3.3 Identify resources to support the established priorities;

8.07.3.4 Describe the time and pace of providing support and monitoring for the established priorities; ~~and~~

8.07.3.5 Describe the measures for analyzing and evaluating that the district support was effective in improving the school performance; and

8.07.3.6 Direct the use of Enhanced Student Achievement funding for strategies to close gaps in academic achievement, if required pursuant to the Division of Elementary and Secondary Education Rules Governing the Distribution of Student Special Needs Funding and the Determination of Allowable Expenditures of those Funds.

8.07.4 A public school district in which forty percent (40%) or more of the public school district’s students scored “in need of support” on the state’s prior year summative assessment for reading shall develop a literacy plan as part of its district support plan.

8.07.4.1 The public school district literacy plan shall include, at a minimum:

8.07.4.1.1 Goals for improving reading achievement throughout the public school district; and

- 8.07.4.1.2 Information regarding the prioritization of funding, including without limitation, Enhanced Student Achievement funding received under Ark. Code Ann. § 6-20-2305, for strategies to improve reading achievement throughout the public school district.
 - 8.07.5 A public school district's support plan shall be posted on the public school district's website, under state-required information, no later than ten (10) days after submission to the Division.
 - 8.07.5.1 The school district shall post on the district's website, with the plan, the date the plan is approved by the Division or State Board, if applicable.
 - 8.07.5.2 Any revision to the approved plan must be submitted to the Division immediately and posted on the district's website in addition to the initial plan. The district shall post the date the revision is approved.
- 8.08 The Division will develop a written plan of support for each district receiving level 3 – coordinated support, level 4 – directed support, and level 5 – intensive support. The plan will at a minimum:
 - 8.08.1 Identify the support the Division will provide to the district as determined through a process of communication and consultation with the district to identify areas where support is requested, necessary, or required; and
 - 8.08.2 Describe the role of the Division, role of the public school district, and timeline of implementation.
- 8.09 Classification as in need of level 5 – intensive support:
 - 8.09.1 The Division shall notify in writing any public school district superintendent and president of the public school district board of directors of the recommendation to the State Board for classification as in need of level 5 – intensive support.
 - 8.09.2 The district shall have the right to appeal to the State Board by filing a written appeal with the Office of the Commissioner via certified mail, return receipt requested, within twenty (20) calendar days of receipt of the written notice prior to being classified as a school district in need of level – 5 intensive support.

8.09.3 The State Board shall hear the appeal of the public school district within sixty (60) days of receipt of the written appeal in the Commissioner's office.

8.09.4 The written appeal shall state in clear terms the reason(s) why the public school district should not be classified as in need of level 5 – intensive support.

8.09.5 The following procedures shall apply to State Board hearings involving public school districts that appeal the Division's recommendation to classify the school district in need of level 5 – intensive support:

8.09.5.1 Documentation for consideration by the State Board during the appeal hearing shall be submitted to the Division no later than fifteen (15) days prior to the date of the hearing.

8.09.5.2 All persons wishing to testify before the State Board shall first be placed under oath by the Chairperson of the State Board.

8.09.5.3 The Division shall have up to twenty (20) minutes to present its case to the State Board, including rebuttal. The Chairperson of the State Board may allow additional time if necessary.

8.09.5.4 The appealing public school district shall have up to twenty (20) minutes to present its case to the State Board as to why the school district should not be classified as in need of level 5 – intensive support. The Chairperson of the State Board may allow additional time if necessary.

8.09.5.5 The State Board may pose questions to any party at any time during the hearing.

8.09.5.6 The State Board shall then discuss, deliberate, and vote upon the matter of the classification.

8.09.5.7 If it deems necessary, the State Board may take the matter under advisement and announce its decision at a later date, provided that all discussions, deliberations, and votes upon the matter take place at a public hearing.

8.09.5.8 The State Board shall issue a written order concerning the matter.

- 8.09.6 A public school district classified as in need of level 5 – intensive support shall receive support upon final determination by the State Board.
- 8.09.7 A public school district may appeal the State Board’s final decision to the Pulaski County Circuit Court pursuant to the Arkansas Administrative Procedure Act, Ark. Code Ann. § 25-15-201 et seq.
- 8.10 The Division shall develop a district improvement/exit plan for each district classified as in need of level 5 – intensive support.
 - 8.10.1 The district improvement/exit plan shall be developed in collaboration with the governing body of the district including the district leadership team and local public school board, if applicable, and the Division.
 - 8.10.1.1 The plan shall contain, at a minimum, the following elements:
 - 8.10.1.1.1 Identification of each criteria for improvement;
 - 8.10.1.1.2 Specific expectations for exit criteria;
 - 8.10.1.1.3 Specific corrective action steps for each criterion for improvement;
 - 8.10.1.1.4 A timeline for the completion of each corrective action step;
 - 8.10.1.1.5 Specific measurements for review of progress and monitoring of implementation; and
 - 8.10.1.1.6 A specific timeline for review of progress and monitoring of implementation.
 - 8.10.1.2 The Division may edit, amend, update, or replace the plan at any time deemed appropriate.
 - 8.10.1.2.1 The district shall be given notice of the edited, amended, updated, or replacement plan criteria.
 - 8.10.2 The Division will provide quarterly reports to the State Board regarding progress of the district toward meeting the identified criteria for exiting level 5 – intensive support.

- 8.10.3 The State Board shall review the progress of the district toward improving the issues that caused classification and implementation of the district improvement/exit plan.
- 8.10.4 The State Board may approve that the exit criteria has been met and remove the district from level 5 – intensive support and place the district in level 4 – directed support for one (1) year with monitoring by the Division and quarterly reporting to the State Board.
 - 8.10.4.1 Division monitoring criteria shall include the district’s continued stability and sustainability of previously identified exit criteria.
- 8.11 If a public school district is classified as in need of level 5 – intensive support, the State Board may:
 - 8.11.1 Direct the Commissioner to conduct an analysis of all school district systems and make recommendations for action by the State Board; and
 - 8.11.2 Assume authority of the public school district, with the exception of an open-enrollment charter school, and take one (1) or more of the following actions at any time after classification:
 - 8.11.2.1 Remove permanently, reassign, or suspend on a temporary basis the superintendent of the public school district and;
 - 8.11.2.1.1 Appoint an individual in place of the superintendent of the public school district to administratively operate the public school district under the supervision and approval of the Commissioner;
 - 8.11.2.1.1.1 Authorize the individual to remove, replace, reassign, or suspend public school district personnel in accordance with state laws; and
 - 8.11.2.1.1.2 Compensate from public school district funds the individual appointed to operate the public school district and other individuals authorized by the Commissioner;

8.11.2.1.2 Remove permanently or suspend on a temporary basis some or all of the current public school district board of directors and either;

8.11.2.1.2.1 Call for the election of a new public school district board of directors, in which case the public school district shall reimburse the county board of election commissioners for election costs as otherwise required by law;

8.11.2.1.2.2 Require the public school district to operate without a board of directors under the supervision of the superintendent of the public school district or an individual or panel appointed by the Commissioner; or

8.11.2.1.2.3 Direct the Commissioner to assume some or all authority of the public school district board of directors as may be necessary to operate the all public school district systems;

8.11.2.1.3 Remove on a temporary basis some or all of the powers and duties granted to the current public school district board of directors under Ark. Code Ann. § 6-13-620 or any other law but allow the public school district board of directors to continue to operate under the direction and approval of the Commissioner.

8.11.2.1.3.1 The State Board shall define the powers and duties of the public school district board of directors.

- 8.11.2.1.3.2 The public school district board of directors shall act in an advisory capacity to the Commissioner regarding all other powers and duties maintained by the Commissioner.
- 8.11.2.1.4 Require the annexation, consolidation, or reconstitution of the public school district under § 6-13-1401 et seq. and applicable rules;
- 8.11.2.1.5 Waive provisions of Title 6 and corresponding rules with the exception of:
 - 8.11.2.1.5.1 Special education programs;
 - 8.11.2.1.5.2 Conducting criminal background checks for employees; and
 - 8.11.2.1.5.3 Health and safety codes as established by the State Board and local governmental entities;
- 8.11.2.1.6 Require reassignment of some or all of the administrative, instructional, or support staff of a public school;
- 8.11.2.1.7 Require a public school to institute and fully implement a student curriculum based on academic standards;
- 8.11.2.1.8 Require a public school to provide professional development for teachers and administrators based on the Division's review of educators' professional growth plans with the cost to be paid by the public school district in which the public school is located;
- 8.11.2.1.9 Remove one (1) or more public schools from the jurisdiction of the classified school district and establish alternative public

governance and supervision of the public school;

8.11.2.10 Require reorganization, closure, or dissolution of one (1) or more of the public schools within the classified district; and

8.11.2.11 Take any other necessary and proper action, as determined by the State Board that is allowed by law.

8.11.3 If an open-enrollment public charter school is classified as in need of level 5 – intensive support, request that the charter authorizer review the school’s charter and determine necessary action.

8.12 Public school district under authority of the State Board of Education.

8.12.1 For a public school district under the authority of the State Board, the State Board shall review quarterly the progress of the public school district toward improving the issues that caused the classification of the public school district as in need of level 5 – intensive support.

8.12.2 At any time during the second full school year following the assumption of authority or any time thereafter:

8.12.2.1 The State Board may direct the Commissioner to update the analysis of all school district systems to determine if the public school district has demonstrated substantial improvement, as evidenced by progress toward meeting exit criteria, of the issues that caused the classification of the public school district as in need of level 5 – intensive support;

8.12.2.2 The Commissioner may recommend to the State Board that the State Board:

8.12.2.2.1 Take additional action concerning the public school district under Ark. Code Ann. § 6-15-2916; or

8.12.2.2.2 Return the public school district to local control through the appointment or election of a board of directors; and

8.12.2.3 The State Board may return the public school district to local control through the appointment or election of a

newly elected board of directors upon the recommendation of the Commissioner.

8.12.2.3.1 The State Board may limit the powers and duties of the public school district board of directors under Ark. Code Ann. § 6-13-620 or any other law but allow the public school district board of directors to operate under the direction and approval of the Commissioner.

8.12.2.3.2 The State Board shall define the powers and duties of the public school district board of directors if the State Board limits the powers and duties under subsection 8.10.2.3.1.

8.12.2.3.3 The public school district board of directors shall act in an advisory capacity to the Commissioner in regards to all other powers and duties maintained by the Commissioner.

8.12.2.4 The State Board may grant additional powers and duties to the public school district board of directors if the public school district demonstrates progress toward improving the issues that caused the classification of the public school district as in need of level 5 – intensive support.

8.12.2.5 If the public school district has not demonstrated to the State Board and the Division that the public school district meets the criteria to exit level 5 – intensive support within five (5) years of the assumption of authority, the State Board shall annex, consolidate, or reconstitute the public school district under Ark. Code Ann. § 6-13-1401 et seq. and applicable rules.

8.13 A student attending a public school district classified as in need of level 5 – intensive support may transfer under the Arkansas Opportunity Public School Choice Act, Ark. Code Ann. § 6-18-227, to another public school district that is not classified as in need of level 5 – intensive support.

8.13.1 All requirements, conditions, and provisions of the Arkansas Opportunity Public School Choice Act, Ark. Code Ann. § 6-18-227, shall apply to transfers pursuant to this section.

8.14 A public school district that fails to comply with requirements placed on the public school district by the State Board pursuant to these rules is in probationary

violation of the Standards for Accreditation of Arkansas Public Schools and School Districts and subject to action by the State Board.

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