



ARKANSAS DEPARTMENT OF EDUCATION

AGENDA STATE BOARD OF EDUCATION

July 9, 2012

Arkansas Department of Education

Arch Ford Auditorium

9:00 AM

 [Back](#)  [Print](#)

Reports

Report-1 Chair's Report

Presenter: Mr. Jim Cooper

Report-2 Commissioner's Report

Presenter: Dr. Tom W. Kimbrell

Report-3 Update on Common Core State Standards and PARCC

This information is provided to keep the State Board of Education apprised of the Department's work activities associated with college and career readiness.

Presenter: Dr. Laura Bednar

Consent Agenda

C-1 Minutes - June 11, 2012

Presenter: Phyllis Stewart

C-2 Commitment to Principles of Desegregation Settlement Agreement: Report on the Execution of the Implementation Plan

By the Court Order of December 1, 1993, the Arkansas Department of Education (ADE) is required to file a monthly Project Management Tool (PMT) to the court and the parties to assure its commitment to the Desegregation Plan. This report describes the progress the ADE has made since March 15, 1994, in complying with the provisions of the Implementation Plan (Plan) and itemizes the ADE's progress against the timelines presented in the Plan. The July report summarizes the PMT for June.

Presenter: John Hoy and Willie Morris

C-3 Newly Employed, Promotions and Separations

The applicant data from this information is used to compile the Applicant Flow Chart forms for the Affirmative Action Report which demonstrates the composition of applicants through the selecting, hiring, promoting and terminating

process.

Presenter: Dr. Karen Cushman and Clemetta Hood

C-4 Consideration of the PLSB Recommendation for Probation of Three (3) Years, Drug Rehab Therapy and a Fine of \$75 for Case #12-018 – Roanne Worsham

The Professional Licensure Standards Board's Subcommittee on Ethics is recommending probation of the teaching license of Roanne Worsham for three (3) years and a fine of \$75, as well as, submitting results of drug testing through a therapy program and provided to ADE, for violation of 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. Ms. Worsham was notified of the Professional Licensure Standards Board's recommendation by certified and regular mail dated May 18, 2012, and accepted the recommendation of the Ethics subcommittee in writing.

Presenter: Michael Smith

C-5 Consideration of the PLSB Recommendation for a Written Reprimand and a Fine of \$50 for Case #12-038 – Allan Charles Ashley

The Professional Licensure Standards Board's Subcommittee on Ethics is recommending a written reprimand for Allan Charles Ashley and a fine of \$50 for violation of Standard 1: An educator maintains a professional relationship with each student, both in and outside the classroom. Mr. Ashley was notified of the Professional Licensure Standards Board's recommendation by certified and regular mail dated April 20, 2012, and accepted the recommendation of the Ethics subcommittee in writing.

Presenter: Michael Smith

C-6 Consideration of the PLSB Recommendation for Probation for One (1) Year and a Fine of \$75 for Case #12-039 – Susanne Lavada Eagan

The Professional Licensure Standards Board's Subcommittee on Ethics is recommending probation of 1 year on the teaching license of Susanne Eagan and a fine of \$75 for violation of Standard 1: An educator maintains a professional relationship with each student, both in and outside the classroom. Ms. Eagan was notified of the Professional Licensure Standards Board's recommendation by certified and regular mail on May 18, 2012, and accepted the recommendation of the Ethics subcommittee in writing.

Presenter: Michael Smith

C-7 Consideration of the PLSB Recommendation for Suspension for Two (2) Years and a Fine of \$100 for Case 12-056 – Horace Ray Charles

The Professional Licensure Standards Board's Subcommittee on Ethics is recommending suspension for two (2) years of the teaching license for Horace Charles and a fine of \$100 for violation of Standard 1: An educator maintains a professional relationship with each student, both in and outside the classroom. Mr. Charles was notified by certified and regular mail on May 18, 2012, and accepted the recommendation of the Ethics subcommittee in writing.

Presenter: Michael Smith

C-8 Consideration of the PLSB Recommendation for a Written Reprimand and a fine of \$50 for Case 12-062 – Mindy Sue McFarland

The Professional Licensure Standards Board's Subcommittee on Ethics is recommending a written reprimand for Mindy McFarland for violation of Standard 4: An educator entrusted with public funds and property honors that trust with honest, responsible stewardship. Ms. McFarland was notified by certified and regular mail on February 13, 2012, and accepted the recommendation of the Ethics subcommittee in writing.

Presenter: Michael Smith

C-9 Consideration of the PLSB Recommendation for Probation for Two (2) Years and a Fine of \$75 for Case #12-068 – Jennifer Paul

The Professional Licensure Standards Board's Subcommittee on Ethics is recommending probation of the teaching license of Jennifer Paul for two years and a fine of \$75 for violation of Standard 1: An educator maintains a professional relationship with each student, both in and outside the classroom. Ms. Paul was notified by certified and regular mail on June 13, 2012, and accepted the recommendation of the Ethics subcommittee in writing.

Presenter: Michael Smith

Action Agenda

A-1 Consideration of 2012-13 ABC Professional Service Contract Grants and Grant Reallocation Slot Recipients

Pursuant to Act 49, the Division of Child Care and Early Childhood Education respectfully requests the approval of grants for the 2012-2013 program year.

Presenter: Paige Cox

A-2 Consideration of Waiver of Standards: Arkadelphia High School

Arkadelphia School District is requesting a waiver of the Standards for Accreditation for Arkadelphia High School. The request is a waiver of the requirements of 10.02.5 of the Rules Governing Standards for Accreditation of Arkansas Public Schools and School Districts.

In grades seven through twelve, a teacher shall not be assigned more than 150 students; an individual academic class shall not exceed 30 students, provided that, in exceptional cases or for course that lend themselves to large group instruction, these ratios may be increased.

Presenter: Johnnie Walters

A-3 Consideration of Waiver of Standards of Accreditation: Mountain View School District for Timbo High School

Mountain View School District is requesting a waiver for the 2012-2013 school year from the requirements of Rule 9.03.4.4 of the Rules Governing Standards for Accreditation of Arkansas Public Schools and School Districts (July 2009).

Rule 9.03.4.4 requires: Foreign Language – two (2) units of the same language

The Timbo High School is in transition from teaching French to teaching Spanish. The school proposes to offer Spanish I and French II by Distance Learning for the 2012-2013 school year.

Presenter: Johnnie Walters

A-4 Hearing on Waiver Request for Certified Teacher License – Joseph Brewer

Joseph Brewer has applied for a provisional license. Mr. Brewer requests a waiver of his 2004 felony theft of property conviction from Missouri. Arkansas Code Annotated § 6-17-410 states that the State Board of Education “shall not issue a first-time license... if the educator has pled guilty or nolo contendere to or has been found guilty of...” of a disqualifying offense unless a waiver is granted. The Arkansas Department of Education has access to and must consider any criminal background check reflecting a guilty plea, or nolo contendere (no contest) or being found guilty by

a jury or judge for any offense listed in § 6-17-410, including records that have been expunged, sealed, or subject to a pardon. Mr. Brewer is not represented by counsel.

Presenter: Katherine Donovan

A-5 Hearing on Waiver Request for Certified Teacher License – Jerome Mitchell

Jerome Mitchell has applied to the Nontraditional Licensure Program which includes application for a provisional license as part of its program beginning July 9, 2012. Mr. Mitchell requests a waiver of his 2003 felony theft of property conviction from Jefferson County. Arkansas Code Annotated § 6-17-410 states that the State Board of Education “shall not issue a first-time license... if the educator has pled guilty or nolo contendere to or has been found guilty of...” of a disqualifying offense unless a waiver is granted. The Arkansas Department of Education has access to and must consider any criminal background check reflecting a guilty plea, or nolo contendere (no contest) or being found guilty by a jury or judge for any offense listed in § 6-17-410, including records that have been expunged, sealed, or subject to a pardon.

Presenter: Katherine Donovan

A-6 Consideration to Postpone the Revision of all Social Studies Curriculum Frameworks for a Period of Two (2) Years

The Division of Learning Services, Curriculum and Instruction Unit, requests approval from the State Board of Education (State Board) to postpone revisions to the Arkansas Curriculum Frameworks for Social Studies. The State Board is empowered under Ark. Code Ann. § 6-11-105 to recommend courses of study for public schools and teacher training institutions.

Arkansas is a member of the Social Studies Assessment, Curriculum, and Instruction Collaborative (SSACI), which is a sub-organization of the Council of Chief State School Officers (CCSSO). As a member state, Arkansas is collaborating with over 20 states in the development of common social studies standards. It would be beneficial for educators in Arkansas to view these standards prior to revising the Arkansas curriculum frameworks. When reviewing these standards, it will, however, still be necessary for Arkansas educators to address standards required by Arkansas law and/or standards for accreditation, such as Arkansas History, Civics, Economics, U.S. History, and World History.

Currently, the Arkansas Department of Education (ADE) has approved curriculum frameworks that were revised and approved by the State Board in 2006. Current curriculum frameworks include: ADE Enhanced AP United States Government and Politics College Board Syllabus, Social Studies K-8, American Government, U.S. History, Arkansas History Grades 7-8 and 9-12, Civics, Civics/American Government, Contemporary United States History, Economics, Psychology, Sociology, World Geography, and World History.

The ADE is requesting the State Board postpone the revision of all Social Studies Curriculum Frameworks for a period of two (2) years.

Presenter: Dr. Laura Bednar and Dr. Tracy Tucker

A-7 Consideration of Arkansas Governor's School Site Selection for 2013-2015

Act 106 (Ark. Code. 6-42-106, Repl. 1999), of the Regular Session of the 1979 General Assembly authorized the establishment of an Arkansas Governor's School to be held annually for rising seniors. Since its inception in the summer of 1980, over 11,200 Arkansas high school students have participated. In accordance with Arkansas Department of Education (ADE) Rules Governing Arkansas Governor's School Site Selection (January 2004), the ADE made available on January 15, 2012, proposals to host Arkansas Governor's School for 2013-2015 to presidents of all Arkansas four-year colleges and universities.

Presenter: Dr. Laura Bednar and Mary Kathryn Stein

A-8 Consider Recommendation for New Praxis Test in Mandarin Chinese to be Effective September 1, 2012

Educational Testing Service (ETS) provided the following information from a two panel, multi-state standard setting study for a new Praxis II test: Chinese (Mandarin): World Language (5665). The Praxis Chinese (Mandarin): World Language Test at a Glance document (ETS, in press) describes the purpose and structure of the test. In brief, the test measures whether entry-level Chinese (Mandarin) teachers have the knowledge and skills believed necessary for competent professional practice. The three-hour test is divided into four separately timed sections: Section I: Listening with Cultural Knowledge (50 minutes), 36 multiple-choice questions Section II: Reading with Cultural Knowledge (50 minutes), 39 multiple-choice questions Section III: Writing (60 minutes), four constructed-response tasks Section IV: Speaking (20 minutes), four constructed-response tasks. The recommended passing score for each panel, as well as the average passing score across the two panels, are provided to help education agencies determine an appropriate operational passing score.

For the Praxis Chinese (Mandarin): World Language test, the recommended passing score is 65 (out of a possible 98 raw-score points). The scaled score associated with a raw score of 65 is 164 (on a 100 - 200 scale). Panelists from 18 states (including four from Arkansas) were recommended by their respective education agency to participate. The education agencies recommended panelists with (a) experience, either as Chinese (Mandarin) teachers or college faculty who prepare Chinese (Mandarin) teachers and (b) familiarity with the knowledge and skills required of beginning Chinese (Mandarin) teachers. The ADE recommends adopting the Praxis Chinese (Mandarin): World Language (5665) test effective September 1, 2012.

Presenter: Michael Rowland

A-9 Consideration of New Praxis II Cut Score for Gifted Education to be Effective September 1, 2012

Four (4) states require the Educational Testing Service (ETS) Gifted Education (0357):

Arkansas--156 cut score

Kentucky--152 cut score

North Dakota--146 cut score

Tennessee--146 cut score

Arkansas Gifted Education test takers (239 total) the past five (5) years: 58% pass rate with the 156 cut score 84% pass rate the past five (5) years with a 150 cut score*

The current 156 is the recommended study value from ETS's standard setting study conducted September 2006 in Little Rock, Arkansas. The proposed adjusted Gifted Education (0357) cut score of 150 is within the study's Standard Error of Measurement (SEM 144/167 scaled). The 150 would closer align with cut scores of other states and increase Arkansas's overall pass rate from 58% to 84%. The ADE recommends adjusting the Gifted Education (0357) cut score from 156 to 150 effective September 1, 2012.

Presenter: Michael Rowland

A-10 Consideration to Suspend the Teaching License of Two (2) National Board of Professional Teaching Standards (NBPTS) Candidates Who Owe Money to ADE

As ADE continues to close outstanding NBPTS accounts; several unresolved balances have been discovered. These cannot be waived or closed without the approval of the State Board. All of these are old and need to be resolved. The teaching licensure status of two of these individuals is listed as current with one listed as expired. Robin Carraway and

Kelly McMahan (Meek) Ark. Code Ann. § 6-17-413 (b) (3) The State Board of Education may suspend the Arkansas teacher's license of any person that fails, when required to do so, to repay moneys contributed by the department for the certification program of the national board. All of these candidates were unsuccessful in completing the program and according to A.C.A. § 6-17-413 (b) (3) are required to repay the Department. Every effort has been made to contact these people and secure repayment of the funds due has been unsuccessful.

The Office of Teacher Quality therefore, requests suspension of the above referenced teacher's license until such time as the fees owed have been repaid.

Presenter: Michael Rowland

A-11 **Consideration of Cut Score for Graduate Record Examination (GRE) for Acceptance into Institutions of Higher Education Teacher Preparation Programs in Lieu of Praxis I Exam**

ADE policy requires that individuals must pass each of the Reading, Mathematics and Writing sections of the Praxis I: Pre-Professional Skills Test as a prerequisite to being accepted into a teacher preparation program. However, the policy allows individuals seeking admission into post-baccalaureate alternative-route teacher preparation programs to substitute passing scores from the more robust Graduate Record Examination (GRE) in lieu of scores from Praxis I test. ADE requests that the minimum passing scores for the GRE subtests in Verbal Reasoning, Quantitative Reasoning and Analytical Writing be set at 142, 142, and 3.5 respectively, thus representing similar percentile levels as the minimum passing scores for the Reading, Mathematics and Writing sections of the Praxis I test. The proposed minimum passing scores for the GRE subtests have been endorsed by the Professional Licensure Standards Board.

Presenter: Dr. Mike Lucas

A-12 **Consideration of Declaration of Critical Academic Shortage Areas as Required by Ark. Code Ann. § 6-15-403 and § 6-81-609**

Pursuant to Ark. Code. Ann. § 6-15-403 and §6-81-609 it is required that the State Board of Education declare licensure areas as the Critical Academic Shortage Areas. The Critical Shortage areas for 2012-2013 are attached.

Presenter: Dr. Karen Cushman

A-13 **Consideration for Public Comment: Revisions to the Arkansas Department of Education Rules Governing Concurrent College and High School Credit for Students Who Have Completed the Eighth Grade**

Ark. Code Ann. § 6-18-223 provides statutory authority for the State Board to adopt rules to permit public school students who have successfully completed the eighth grade to enroll in a publicly supported community college or four-year college or university for the purpose of obtaining concurrent high school and higher education course credit. During the 2010-2011 and 2011-2012 school year, the State Board approved a concurrent credit pilot project. Based upon the results of the pilot project, the Arkansas Department of Higher Education (ADHE) and the Arkansas Department of Education (ADE) recommend that the provisions of the pilot project be given permanent effect in the ADE rules. Accordingly, Department staff respectfully requests that the State Board approve the proposed revisions for public comment.

Presenter: Director Shane Broadway and Jeremy Lasiter

A-14 **Consideration for Approval for Public Comment: Revisions to the Arkansas Department of Education Rules Governing Special Education and Related Services**

The proposed amendments seek to increase educational continuity for students in Juvenile Detention Centers. Arkansas Department of Education staff respectfully requests that the State Board approve the proposed Rules for

public comment.

Presenter: Courtney Salas-Ford

A-15 **Consideration for Public Comment: Revisions to the Arkansas Department of Education Rules Governing the Arkansas Comprehensive Testing, Assessment and Accountability Program and the Academic Distress Program**

Last revised in July 2010, the Arkansas Department of Education (ADE) Rules Governing the Arkansas Comprehensive Testing, Assessment and Accountability Program and the Academic Distress Program should be updated to reflect: (1) Revisions to Arkansas law; (2) A new definition for “academic distress;” and (3) Procedures related to the ADE’s flexibility proposal as approved by the United States Department of Education. Accordingly, Department staff respectfully requests that the State Board approve the proposed revisions for public comment.

Presenter: Dr. Laura Bednar, John Hoy and Jeremy Lasiter

A-16 **Consideration for Final Approval: Repeal of Arkansas Department of Education Rules Governing Administrative Consolidation or Annexation of Public School Districts and Boards of Directors of Local School Districts**

Acts 989 and 1217 of 2011 revised Arkansas law concerning the consolidation and annexation of school districts. The State Board previously approved two separate rules, including this rule, which govern the consolidation and annexation of school districts. Department staff recommends this rule be repealed so that it can be combined with the other rule governing consolidation and annexation of school districts and updated in accordance with Acts 989 and 1217 of 2011. On May 14, 2012, the State Board approved the proposed repeal of these rules for public comment. A public hearing was held May 31, 2012. The public comment period expired June 20, 2012. No public comments were received. Department staff respectfully requests that the State Board give its final approval to the proposed repeal of these rules.

Presenter: Jeremy Lasiter and Mark White

A-17 **Consideration for Final Approval: Repeal of Arkansas Department of Education Rules Governing Consolidation or Annexation of Public School Districts and Boards of Directors of Local School Districts**

Acts 989 and 1217 of 2011 revised Arkansas law concerning the consolidation and annexation of school districts. The State Board of Education previously approved two separate rules, including this rule, which govern the consolidation and annexation of school districts. Department staff recommends that this rule be repealed so that it can be combined with the other rule governing consolidation and annexation of school districts and updated in accordance with Acts 989 and 1217 of 2011. On May 14, 2012, the State Board of Education approved the proposed repeal of these rules for public comment. A public hearing was held May 31, 2012. The public comment period expired June 20, 2012. No public comments were received. Department staff respectfully requests that the State Board give its final approval to the proposed repeal of these rules.

Presenter: Jeremy Lasiter and Mark White

A-18 **Consideration for Final Approval: Repeal of Arkansas Department of Education Rules Governing the Distribution of Consolidation/Annexation Incentive Funding**

Each fiscal year, the Arkansas General Assembly appropriates consolidation/annexation incentive funds to the Arkansas Department of Education. The State Board of Education last approved rules governing the distribution of those funds in November 2005. Department staff requests that the State Board repeal the existing rules pertaining to consolidation/annexation incentive funding so that the content of those rules and be updated and included in the revised Arkansas Department of Education Rules Governing the Consolidation and Annexation of School Districts. On

May 14, 2012, the State Board of Education approved the proposed repeal of these rules for public comment. A public hearing was held May 31, 2012. The public comment period expired June 20, 2012. No public comments were received. Department staff respectfully requests that the State Board give its final approval to the proposed repeal of these rules.

Presenter: Jeremy Lasiter and Mark White

A-19 **Consideration for Final Approval: Arkansas Department of Education Rules Governing the Closure of Isolated Schools**

Act 1131 of 2011, now codified at Ark. Code Ann. § 6-20-602, revised Arkansas law concerning the closure of isolated schools. The proposed rules include the revisions contained in Act 1131 of 2011 and create a procedure for the State Board to follow when considering the closure of an isolated school. On May 14, 2012, the State Board of Education approved the proposed rules for public comment. A public hearing was held on May 31, 2012. The public comment period expired on June 20, 2012. The ADE received no public comments. Department staff respectfully requests that the State Board give its final approval to the proposed rules.

Presenter: Jeremy Lasiter

A-20 **Consideration for Final Approval: Arkansas Department of Education Rules Governing the Consolidation and Annexation of School Districts**

Acts 989 and 1217 of 2011 revised Arkansas law concerning the consolidation and annexation of school districts. The proposed rules include the revisions contained in Acts 989 and 1217 of 2011. The State Board previously approved two separate rules governing the consolidation and annexation of school districts. A third rule governs the distribution of consolidation and annexation incentive funding. The proposed rules update the separate rules and combine them into one rule. On May 14, 2012, the State Board approved the proposed rules for public comment. A public hearing was held May 31, 2012. The public comment period expired June 20, 2012. Two public comments were received. No revisions to the rule were made based upon the public comments. Department staff respectfully requests the State Board give final approval to the proposed rules.

Presenter: Jeremy Lasiter and Mark White

A-21 **Consideration for Final Approval: Proposed Revisions to the Arkansas Department of Education Rules Governing the Arkansas Better Chance Program**

On February 13, 2012, the State Board approved for public comment proposed revisions to the Arkansas Department of Education Rules Governing the Arkansas Better Chance Program. A public hearing was held March 6, 2012. The public comment period expired March 26, 2012. Revisions were made to the rule based upon the public comments received. Department staff respectfully requests that the State Board give its final approval to the proposed rules.

Presenter: Breck Hopkins and Jeremy Lasiter

**Minutes
State Board of Education Meeting
Monday, June 11, 2012**

The State Board of Education met Monday, June 11, 2012, in the auditorium of the Department of Education building. Dr. Ben Mays, Chair, called the meeting to order at 9 a.m.

Present: Dr. Ben Mays, Chair; Jim Cooper, Vice Chair; Brenda Gullett; Sam Ledbetter; Alice Mahony; Toyce Newton; Mireya Reith; Vicki Saviers; Dr. Tom Kimbrell, Commissioner; and Kathy Powers, Teacher of the Year

Absent: Joe Black

Reports

Chair's Report:

Board members expressed appreciation to Dr. Ben Mays, Board Chair, for his dedication and commitment to education. Dr. Mays' service on the Board will expire at the end of June.

Commissioner's Report

Dr. Kimbrell thanked Dr. Mays for his seven years of service on the State Board. He noted Dr. Mays' tireless efforts for better educational opportunities for children.

In addition, Dr. Kimbrell lauded the work of Kathy Powers, 2011 Teacher of the Year. He welcomed Kim Wilson as the incoming Teacher of the Year. Ms. Wilson will serve as a non-voting member of the State Board beginning July 2012.

Recognition of Mountain Home School District Robotics Team

The Mountain Home robotics team, the Baxter Bomb Squad, took first place honors in the World Championship competition. The world champion students were publicly recognized for outstanding achievement.

Effective Professional Development and Personal Research Project

Ms. Kathy Powers, 2011 Teacher of the Year, shared her experience and research regarding quality professional development and its impact on student achievement. Ms. Powers thanked the State Board and Department staff for the help she received during her year of service.

Informational Update on Common Core State Standards and PARCC

Dr. Laura Bednar, Assistant Commissioner of Learning Services, expressed appreciation for Dr. Gayle Potter's service to the Department and the state. Dr. Potter will retire at the end of the school year.

Dr. Bednar also said the Guiding Coalition spent an entire day the previous week updating the Common Core State Standards Strategic Plan.

Special Report on Athletic Expenditures for Selected Arkansas Public School Districts for Year Ended June 30, 2011

Kathleen Crain, Interim Assistant Commissioner for Fiscal Services, presented the Special Report on Athletic Expenditures submitted by the Legislative Joint Auditing Committee dated April 16, 2012. The report covered the athletic expenses of selected districts chosen on a rotating basis and a re-examination of districts that underreported spending by more than ten percent the previous audit year.

Total athletic expenditures reported to the Department prior to review adjustments for the districts examined was \$19.1 million. Expenditures for 20 of the districts reviewed were adjusted in excess of ten percent. Those ranged from \$9,553 at Blevins School District to \$777, 916 at Russellville School District and a range of 10.5 percent at Glen Rose School District to 104.3 percent at Mineral Springs School District.

Consent Agenda

Mr. Ledbetter moved, seconded by Mr. Cooper, approval of the Consent Agenda. The motion carried unanimously.

Items included in the Consent Agenda:

- Minutes of the May 14, 2012, Board Meeting
- Commitment to Principles of Desegregation Settlement Agreement: Report on the Execution of the Implementation Plan
- Newly Employed, Promotions and Separations
- Waivers to Educational Agencies for Teachers Teaching Out of Area for Longer than 30 Days
- Review of Loan and Bond Applications—8 second lien bonds-\$24,725,000; 3 revolving loan applications-\$255,980; and 2 voted bond applications-\$132,995,000
- Voluntary Surrender of Teacher License—William Way Thomas
- Sanction for Teachers as Recommended by the Professional Licensure

- Joan Miller Bowling
- Paula J. Velazquez
- David Westenhover

Action Agenda

(Complete records of the hearings are available in the State Board office.)

Consideration of 2012-13 Arkansas Better Chance Grant Renewals

The Division of Childcare and Early Childhood Education and the Arkansas Better Chance Program requested approval of additional 2011-12 grants and the approval of 2012-13 renewal grants.

Ms. Gullett moved, seconded by Ms. Newton, approval of the request. The motion carried unanimously.

Standards Assurance Unit Summary of Events Report for 2011-2012 School Year

In a report of the Standards Assurance Unit, Johnie Walters, Unit Leader, summarized the unit's activities:

- technical visits to seven individual school districts
- twenty-two visits to schools in fiscal distress or alert status
- seven probationary review visits
- conducted 24 workshops
- made 258 onsite standards review monitoring visits in individual school sites within 72 school districts
- completed annual accreditation reports for all 241 school districts and 17 charter schools

Mr. Cooper moved, seconded by Ms. Reith, to accept the report. The motion carried unanimously.

Final Accreditation Status Report of Arkansas Public Schools and School Districts for 2011-2012 School Year

Mr. Walters presented the 2011-2012 accreditation status report citing 211 schools for standards violations. Twenty schools were placed on probation. Ten districts received an accredited-cited status.

Mr. Cooper moved, seconded by Ms. Gullett, to accept the report. The motion carried unanimously.

White County Central School District Appeal of the Accredited-Probationary Status to White County Central High School

White County Central School District appealed the assigned status of Accredited – Probationary to White County Central High School. The district was in violation of Rule 9.03.4.11.8 regarding notification to the Arkansas Department of Education of intent to use an Advanced Placement (AP) course to meet the requirements of the 38 courses mandated to be taught in Arkansas public schools.

Superintendent Shelia Whitlow said it was not a case of the math elective not taught, but rather an error in the letter sent to the Department.

Mr. Cooper moved, seconded by Ms. Newton, to change the status assigned the school to accredited cited because the school had a teacher working on an ALP. The motion carried unanimously.

Consideration of the Accredited Probationary Status of Dollarway High School for Two Consecutive Years

Mr. Walters reported that Dollarway High School had been identified as being in probationary status for two consecutive school years—2010-11 Licensure Violation and 2011-12 OSR Items --Transcript Irregularities.

Board members expressed frustration by the school district's failure to meet state accreditation standards and to show improvement in student achievement.

Commissioner Kimbrell said the district's problems go beyond whether transcripts had proper stamps. He said the district was on the fiscal distress watch list and recently lost a sizeable federal school improvement grant.

Ms. Saviers moved, seconded by Ms. Newton, to reconstitute the district's leadership by removing the superintendent and the school board. It was further stipulated that Dr. Kimbrell would be responsible for the governance of the district and would give a progress report at the Board's September 2012 meeting. The motion carried unanimously.

Consideration of Request for Open-Enrollment Public Charter School Charter Amendment: Little Rock Preparatory Academy

The Little Rock Preparatory Academy requested State Board approval to move the school's middle grades to a new location one and one-half blocks south of Asher and University Avenue. School officials also asked to amend the school's charter with additional waivers—applicability of state statutes to the school's governance structure; statutes requiring personnel policy committees for teachers and support staff; rules governing substitute teachers and notification of an assignment of a non-licensed teacher; the Teacher Fair Dismissal Act; and the Public School Employee Fair Hearing Act.

Ms. Saviers moved, seconded by Mr. Cooper, to approve the additional facility for middle grades and the additional waivers. The motion carried unanimously.

Renewal of Open-Enrollment Public Charter School: Dreamland Academy of Performing and Communication Arts, Little Rock, Arkansas

Dreamland Academy of Performing and Communication Arts, an open-enrollment public charter school located at 5615 Geyer Springs Road in Little Rock requested renewal of their charter for up to twenty (20) years.

Dr. Kimbrell stated the Arkansas Department of Education (ADE) Charter Review Council did not support the school's request for renewal. He said a recent Scholastic Audit found a culture of low expectations with the lowest performing students receiving instruction from people who were not licensed to teach.

Ms. Newton questioned whether the school was an adequate environment for the students

Ms. Mahony moved, seconded by Ms. Gullett, to deny the school's request to renew the charter. The motion carried unanimously.

Review of Open Enrollment Public Charter School: Covenant Keepers College Preparatory Charter School

The ADE requested Covenant Keepers College Preparatory Charter School leaders to appear before the State Board to address audit findings. An audit of the 2010-2011 school year revealed that Valerie Tatum, school superintendent, used her own money to make loans to the school at a 7 percent interest rate—a possible violation of state ethics law. Auditors also found the school could not provide supporting documents for certain transactions and attendance counts.

Ms. Tatum said she was not aware she was violating state law when she made the personal loans to the school. She said actions had been taken to have an on-site bookkeeper to assist with financial accountability.

Commissioner Kimbrell said the school was now working with the Arkansas Public School Resource Center (APSRC) and suggested a one-year probation period.

Ms. Mahony moved, seconded by Ms. Gullett, to place the school on probation for one year and ask APSRC to select new leadership for the school.

Ms. Gullett withdrew her second and the motion failed.

Mr. Cooper moved, seconded by Mr. Ledbetter, to place the school on probation

for one year with regular reports on finances and management. The motion carried unanimously.

Hearing on Waiver Request for Certified Teacher License – Darrenlee Branch

Katherine Donovan, PLSB legal counsel, presented a request for waiver from Darrenlee Branch. Mr. Branch, a nontraditional educator, applied for a license when it was discovered he had disqualifying convictions for felony violations of the Uniform Controlled Substances Act. Both convictions were pardoned by Governor Beebe in February 2010.

Ms. Newton moved, seconded by Mr. Ledbetter, approval of the waiver with the stipulation of probation for a period of two years and no other qualifying conviction or violation of code of ethics. The motion carried unanimously.

Hearing on Waiver Request for Certified Teacher License – Charlotte Brown

Katherine Donovan, PLSB legal counsel, presented a request for waiver from Charlotte Brown. Ms. Brown, a nontraditional educator, applied for a license when it was discovered she had a 2005 disqualifying conviction of theft of public benefits.

Ms. Mahony moved, seconded by Ms. Newton, approval of the waiver with the stipulation of probation for a period of two years and no other qualifying conviction or violation of code of ethics. The motion carried unanimously.

Consideration of Waiver of National Board for Professional Teaching Standards Repayment of State Funds – Sherry Kavian

Sherry Kavian requested a waiver of the repayment of fees expended by the state for her NBCT. Ms. Kavian provided medical documentation and a letter of explanation.

Ms. Gullett moved, seconded by Ms. Saviers, approval of the waiver. The motion carried unanimously.

Consideration of Waiver of National Board for Professional Teaching Standards Repayment of State Funds – James Wagner

James Wagner requested a waiver of the repayment of fees expended by the state for his NBCT. Mr. Wagner provided medical documentation and a letter of explanation.

Mr. Ledbetter moved, seconded by Ms. Newton, to grant the waiver. The motion

carried unanimously.

Consideration of Recommendation for New Praxis II Cut Scores in Professional School Counselor to be Effective September 1, 2012

A recommendation was made to drop the School Guidance and Counseling (0420) Praxis test and replace it with the Professional School Counselor (0421) Praxis test with a passing score of 71 effective September 1, 2012.

Ms. Gullett moved, seconded by Ms. Newton, to replace Praxis test 0420 with test 0421 effective September 1, 2012. The motion carried unanimously.

Consideration of Nominated Members for the Professional Licensure Standards Board to Replace Members Whose Terms are Expiring June 30, 2012

The following nominations for the PLSB were presented: Brenda Brown, Kindergarten Teacher, Helena/West Helena School District; Michael Poore, Superintendent, Bentonville School District; Jody Vines, Principal, Washington Middle School, El Dorado School District; Dr. Mitch Holifield, Department Chair of Educational Leadership, Arkansas State University; and Debbie Miller, Director of Instructional Services, Conway School District. The terms will be July 1, 2012, through June 30, 2015.

Ms. Saviers moved, seconded by Mr. Cooper, to accept the nominations. The motion carried unanimously.

Election of Officers: State Board of Education for Fiscal Year 2012-2013

The nominating committee recommended the election of Jim Cooper as Board Chair and Brenda Gullett as Vice Chair.

Ms. Newton moved, seconded by Mr. Ledbetter, to accept the committee's recommended slate of officers. The motion carried unanimously.

Consideration for Final Approval: Arkansas Department of Education Rules Governing Education Service Cooperatives

On March 12, 2012, the State Board approved for public comment the proposed Rules Governing Education Service Cooperatives. No formal public comments were received. ADE staff met with leaders from education service cooperatives to revise the rule as indicated. The State Board was requested to give final approval to the proposed rules as modified.

Ms. Newton moved, seconded by Mr. Cooper, to give final approval to the rules. The motion carried unanimously.

Consideration for Final Approval: Revisions to the Arkansas Department of Education Rules Governing Public Charter Schools

On April 10, 2012, the State Board approved for public comment proposed revisions to the Rules Governing Public Charter Schools. No revisions to the rule were made based upon the public comments received. The State Board was requested to give final approval to the proposed rules.

Mr. Cooper moved, seconded by Ms. Newton, to approve the rules for final approval. The motion carried unanimously.

Consideration for Emergency Approval: Open-Enrollment Public Charter School New Application

Ark. Code Ann. §§ 6-23-201 and 301 require the State Board to adopt application forms for those wishing to apply for a charter to open an open-enrollment public charter school. According to the schedule previously adopted by the State Board, applications for open-enrollment charter schools are due August 31, and letters of intent are due June 30. Because of the short amount of time until the application due date, and because of changes in the applications required by other rules changes, consideration of approval of these application forms on an emergency basis is requested.

Mr. Cooper moved, seconded by Mr. Reith, to approve the rules on an emergency basis. The motion carried unanimously.

Consideration for Final Approval: Arkansas Department of Education Rules Governing the Teacher Excellence and Support System

On April 10, 2012, the State Board of Education approved for public comment the Rules Governing the Teacher Excellence and Support System. Minor revisions were made to the rule based upon the public comments received. The State Board was requested to give final approval to the proposed rules.

Mr. Cooper moved, seconded by Ms. Gullett, final approval of the rules. The motion carried unanimously.

Consideration for Public Comment: Proposed Revisions to the Arkansas Department of Education Rules Governing the Teacher Excellence and Support System - June 2012

Staff from the United States Department of Education (USDOE) recommended the State Board and the ADE consider revisions to the student growth measures contained within the existing Teacher Excellence and Support System rules. In accordance with USDOE recommendations, ADE staff revised Sections 5.00 and

14.00 of the Teacher Excellence and Support System rules. The State Board was requested to approve the proposed rule for public comment.

Ms. Mahony moved, seconded by Ms. Reith, to approve the rules for public comment. The motion carried unanimously.

Consideration for Approval for Public Comment: Proposed Arkansas Department of Education Rules Governing Educator Licensure

In response to recommendations from the Licensure Task Force and the Professional Licensure Standards Board, the ADE proposed to combine seven of the existing licensure rules into a single rule governing licensure. The proposed rules incorporate many of the changes recommended by the Task Force, as well as other changes recommended by the ADE. The State Board was requested to approve and release the proposed new rules for public comment.

Ms. Mahony moved, seconded by Ms. Newton, to approve the release of the rules for public comment. The motion carried unanimously.

Consideration for Approval for Public Comment: Repeal of Current Arkansas Department of Education Rules Governing Addition of Areas of Licensure or Endorsement (A-22)

The substantive provisions of these rules have been incorporated into the proposed new Rules Governing Educator Licensure. The State Board was requested to approve the proposed repeal of these rules for public comment.

Consideration for Approval for Public Comment: Repeal of Current Arkansas Department of Education Rules Governing Initial and Standard/Advanced Level School Administrator Licensure (A-23)

The substantive provisions of these rules have been incorporated into the proposed new Rules Governing Educator Licensure. The State Board was requested to approve the proposed repeal of these rules for public comment.

Consideration for Approval for Public Comment: Repeal of Current Arkansas Department of Education Rules Governing Initial, Standard/Advanced Level and Provisional Teacher Licensure (A-24)

The substantive provisions of these rules have been incorporated into the proposed new Rules Governing Educator Licensure. The State Board was requested to approve the proposed repeal of these rules for public comment.

Consideration for Approval for Public Comment: Repeal of Current Arkansas Department of Education Rules Governing Licensure of Speech Language Pathologists by the State Board of Education (A-25)

The substantive provisions of these rules have been incorporated into the proposed new Rules Governing Educator Licensure. The State Board was requested to approve the proposed repeal of these rules for public comment.

Consideration for Approval for Public Comment: Repeal of Current Arkansas Department of Education Rules Governing Requirements And Procedures For Renewing A Standard/Professional Arkansas Teaching License (A-26)

The substantive provisions of these rules have been incorporated into the proposed new Rules Governing Educator Licensure. The State Board was requested to approve the proposed repeal of these rules for public comment.

Consideration for Approval for Public Comment: Repeal of Current Arkansas Department of Education Rules Governing Parental Notification of an Assignment of a Non-Licensed Teacher to Teach a Class for More Than Thirty (30) Consecutive School Days During a School Year and for Granting Waivers (A-27)

The substantive provisions of these rules have been incorporated into the proposed new Rules Governing Educator Licensure. The State Board was requested to approve the proposed repeal of these rules for public comment.

Consideration for Approval for Public Comment: Repeal of Current Arkansas Department of Education Rules Governing Teacher Licensure by Reciprocity (A-28)

The substantive provisions of these rules have been incorporated into the proposed new Rules Governing Educator Licensure. The State Board was requested to approve the proposed repeal of the rule for public comment.

Ms. Saviers moved, seconded by Mr. Cooper, to release for public comment Agenda items A-22 through A-28. The motion carried unanimously.

Consideration for Approval for Public Comment: Revisions to the Arkansas Department of Education Rules Governing the Code of Ethics for Arkansas Educators

The proposed amendments streamline the State Board hearing process for ethics cases in which the educator requests the State Board review a recommendation by the PLSB Subcommittee. These amendments also align the rules with the Administrative Procedures Act, Ark. Code Ann. § 25-15-210. The State Board was requested to approve the rule for public comment.

Mr. Cooper moved, seconded by Ms. Newton, to approve the rules for public

comment. The motion carried unanimously.

Consideration for Approval for Public Comment: Proposed Open-Enrollment Public Charter School New Application and District Conversion or Limited Public Charter School New Application

Ark. Code Ann. §§ 6-23-201 and 301 require the State Board to adopt application forms for those wishing to apply for a charter to open an open enrollment, district conversion, or limited public charter school. The State Board was requested to approve the application forms for public comment.

Mr. Cooper moved, seconded by Ms. Newton, to approve the application forms for public comment. The motion carried unanimously.

Consideration for Public Comment: Revisions to the Arkansas Department of Education Rules Governing Public School Student Services

Acts 1172 and 1204 of 2011 amended Arkansas law related to public school student services programs. The current ADE rule was last revised in September 1999. The State Board was requested to approve the proposed rules for public comment.

Mr. Cooper moved, seconded by Ms. Gullet, approval of the rules for public comment. The motion carried unanimously.

Consideration for Public Comment: Revisions to the Arkansas Department of Education Rules Governing Technology Training Centers in Education Service Cooperatives

Last revised in October 1996, the Rules Governing Technology Training Centers in Education Service Cooperatives should be revised to reflect existing statutory law and ADE requirements. The State Board was requested to approve the proposed rules for public comment.

Mr. Ledbetter moved, seconded by Mr. Cooper, approval of the rules for public comment. The motion carried unanimously.

Consideration for Public Comment: Revisions to the Arkansas Department of Education Rules Identifying and Governing the Arkansas Fiscal Assessment and Accountability Program

The State Board of Education recently approved for public comment proposed rules related to education service cooperatives. Those proposed rules included procedures related to education service cooperatives in fiscal distress. The current Rules Identifying and Governing the Arkansas Fiscal Assessment and

Accountability Program should be revised to remove references to fiscal distress for education service cooperatives. The rules should also be reformatted and updated to mirror existing statutory requirements. State Board approval of the proposed rules for public comment was requested.

Mr. Ledbetter moved, seconded by Mr. Cooper, approval of the rules for public comment. The motion carried unanimously.

Adjournment

The meeting adjourned at 3:31 p.m.

These minutes were recorded by Phyllis Stewart.

ADE'S PROJECT MANAGEMENT TOOL EXECUTIVE SUMMARY
JUNE 30, 2012

This document summarizes the progress that ADE has made in complying with the provisions of the Implementation Plan during the month of June 2012.

IMPLEMENTATION PHASE ACTIVITY

I. Financial Obligations

- A. As of May 31, 2012, State Foundation Funding payments paid for FY 11/12 totaled \$55,916,445 to LRSD, \$31,797,038 to NLRSD, and \$38,992,228 to PCSSD.
- B. As of May 31, 2012, the Magnet Operational Charge paid for FY 11/12 totaled \$13,114,544. The allotment for FY 11/12 was \$14,373,720.
- C. As of May 31, 2012, the M-to-M incentive checks paid for FY 11/12 totaled \$4,096,534 to LRSD, \$4,135,755 to NLRSD, and \$9,355,794 to PCSSD.
- D. ADE pays districts three equal installments each year for their transportation budgets. North Little Rock was overpaid \$271,487.69 over the last two payments. The current payment reflects what is due less the amount of the overpayment.
 - 1. In December 2011, General Finance made the last one-third payment to the Districts for their FY 10/11 transportation budget. As of December 31, 2011, transportation payments for FY 10/11 totaled \$3,977,759.00 to LRSD, \$1,456,077.37 to NLRSD, and \$2,320,249.40 to PCSSD.
 - 2. In December 2011, General Finance made the first one-third payment to the Districts for their FY 11/12 transportation budget. As of December 31, 2011, transportation payments for FY 11/12 totaled \$1,297,333.34 to LRSD, \$515,623.32 to NLRSD, and \$889,000.35 to PCSSD.
 - 3. In February 2012, General Finance made the second one-third payment to the Districts for their FY 11/12 transportation budget. As of February 29, 2012, transportation payments for FY 11/12 totaled \$2,594,666.67 to LRSD, \$689,693.05 to NLRSD, and \$1,778,000.70 to PCSSD.
- E. On May 9, 2012, The Office of State Procurement was awarded the bid for the sixteen (16) Magnet and M to M buses from Diamond States Bus Sales in Conway, AR.
Three (3) 47 passenger buses @ \$67,054.00 each
Thirteen (13) 65 passenger buses @ \$68,575.00 each
Total bid award is for \$1,092,637.00
Buses should be delivered sometime in August.
- F. In July 2011, Finance paid the Magnet Review Committee \$92,500. This was the total amount due for FY11/12.
- G. In July 2011, Finance paid the Office of Desegregation Monitoring \$200,000. This was the total amount due for FY 11/12.

II. *Monitoring Compensatory Education*

On April 5, 2012, the ADE Implementation Phase Working Group met to review the Implementation Phase activities for the previous quarter. Mr. Willie Morris, ADE Lead Planner for Desegregation, updated the group on all relevant desegregation issues. Mr. Scott Richardson, Assistant Attorney General, stated that on March 19, 2012, they were still waiting for Judge Marshall to release the State from the 1993 Settlement Agreement. The settlement schedules had not been discussed in the last two years. Mr. Richardson also stated that on March 29, 2012, the two main things that were submitted to the Courts were Charter Schools Open Enrollment and Achievement Gap. Mr. Morris stated the big issue is trying to address the nine (9) non-unitary areas in the last Court Order while in fiscal distress. The funding for the facilities in the Western part of the County is better than the funding for pre-existing facilities. On March 1, 2012, Dr. Stein received the PCSSD facilities plan. Due to bad weather conditions during Spring Break, Mr. Morris was unable to visit any facilities. Next week, if the weather permits, he will visit facilities that are not testing. The ADE will continue to have Implementation Phase Meetings until the desegregation case is totally finished. Transportation and facility funding are to continue being provided until being released from the Court. There has been no feedback on LRSD from Mr. Heller. The Charter School Laws are the only thing having a negative impact on their litigation. Mr. Jeremy Lasiter, ADE General Council for Legal Services, stated there has been no response to letters in the past 5-6 years. The next Implementation Phase Working Group Meeting is scheduled for July 12, 2012 at 1:30 p.m. in room 201-A at the ADE.

III. *A Petition for Election for LRSD will be Supported Should a Millage be Required*

Ongoing. All court pleadings are monitored monthly.

IV. *Repeal Statutes and Regulations that Impede Desegregation*

In June 2011, the ADE sent letters to the school districts in Pulaski County asking if there were any new laws or regulations that may impede desegregation. The districts were asked to review laws passed during the 88th Legislative Session, and any new ADE rules or regulations.

V. *Commitment to Principles*

On June 11, 2012, the Arkansas State Board of Education reviewed and approved the PMT and its Executive Summary for the month of May.

VI. *Remediation - Evaluate the impact of the use of resources for technical assistance*

On April 27, 2012, Suzanne Knowles conducted training on High-Stakes Algebra I Guidance. The training was clarification on removal of students from eligibility list. The training took place at ADE.

VII. *Test Validation*

On May 4, 2012, Jeremy Lasiter, ADE General Council for Legal Services, advised via email that he had been working with Dr. Gayle Potter and her team to come up with a description to be used in the PMT under the heading "Test Validation." Currently, the PMT references a report that was given back in 2001. The language is to be replaced with the following summary:

The Arkansas Department of Education (ADE) has, for over fifteen (15) years, implemented a rigorous, statistically sound and nationally recognized process for developing questions for its state standardized assessments. This process continues on an ongoing basis.

VII. Test Validation (Continued)

Before a question appears on a state standardized exam to measure student achievement, the question must survive a strict review process that lasts at least two (2) years. The process includes a review of each draft question by an internal team of ADE content specialists, a Content Committee, a Bias Review Committee and a Committee of Practitioners. The ADE also relies upon trained psychometricians, a Technical Advisory Committee (TAC), and the federal peer review process to conduct ongoing evaluations of the ADE's standardized testing procedures to ensure that those procedures are reliable, valid and controlled for bias.

Part of the two-year review process includes a review of each draft test question by the Bias Review Committee. The committee specifically reviews each draft test question for bias or lack of cultural sensitivity. The Bias Review Committee consists of approximately ten (10) educators, program specialists and administrators from throughout Arkansas. This committee is responsible for reviewing all reading passages, test questions, and writing prompts to make certain that the questions are controlled for bias and are not insensitive to specific groups or individuals. Once each draft question is field tested, the Bias Review Committee meets again to review the results using student data disaggregated by demographic group to review indications of possible bias with regard to a particular question. The Bias Review Committee has the power to reject a draft question altogether or require the draft question to be revised. If the Bias Review Committee orders a draft question to be revised, the entire two-year review process begins anew.

Only a draft question that has been found acceptable at every stage of the bias review process may be placed on an operational test to measure student achievement.

VIII. In-Service Training

On May 9, 2012, ADE staff provided Professional Development at Indian Hills Elementary in the North Little Rock School District. Teachers enrolled in Year 2 of Effective Literacy came in and observed the literacy instruction in a Second Grade classroom. A debriefing session and professional development was held in the afternoon. The audience was 2nd, 3rd and 4th Grade Teachers.

On May 10, 2012, ADE staff provided Professional Development at Little Rock Metro Center in Little Rock. It regarded Common Core State Standards Institute #4 and contained information about learning progressions within the CCSS and how instruction will have to be adjusted for them. Dr. Tracy Tucker and Debbie Coffman presented the information via CIV. The audience was District Administrators.

On May 15, 2012, ADE staff provided Professional Development at Meadowcliff Elementary in the Little Rock School District. The staff met with in Grade Level Teams to receive professional development on Common Core State Standards. The audience was Principal, Media Specialist and Literacy Coach.

On June 6, 2012, ADE staff provided Professional Development at Pulaski County Special School District Professional Development Center. It regarded Effective Literacy for Grades 2-4 Day 8: Self-Extending Level Learners and Instructional Implications for Fluency, Word Study, and Vocabulary. Participants can and do: 1) Identify evidence of self-extending level learner behaviors in the reading/orthographic/writing systems through analysis of student work, assessment, and the literacy developmental continuum. 2) Explain change over time in student learning behaviors and shifts occurring in teacher role and students expectations. 3) Utilize formative assessments, the literacy development continuum, and Common Core State Standards to plan instruction in the areas of fluency, word study, and vocabulary. The audience was Teachers, Instructional Facilitators and Administrators.

VIII. *In-Service Training (Continued)*

On June 7, 2012, ADE staff provided Professional Development at Pulaski County Special School District Professional Development Center. It regarded Effective Literacy for Grades 2-4 Day 10: Self-Extending Level Learners and Instructional Implications for the Writing Workshop. Participants can and do: 1) Identify evidence of self-extending level learner and explain change over time in student learning behaviors and shifts occurring in teacher role and students expectations. 2) Describe purposes for literature discussion, literature circles, and literature study groups. 3) Utilize formative assessments, the literacy development continuum, and Common Core State Standards to provide explicit comprehension instruction that enables students to effectively utilize skills and strategies necessary while reading for meaning. The audience was Teachers, Instructional Facilitators and Administrators.

On June 8, 2012, ADE staff provided Professional Development at Pulaski County Special School District Professional Development Center. It regarded Effective Literacy for Grades 2-4 Day 9: Self-Extending Level Learners and Instructional Implications for the Reading Workshop. Participants can and do: 1) Explain the increasing expectations and changes in the roles of teacher and students during instructional contexts for self-extending writers. 2) Investigates assessment and instructional strategies to support self-extending writers. 3) Relate writing instruction at the self-extending stage to the Common Core Standards. The audience was Teachers, Instructional Facilitators and Administrators.

IX. *Recruitment of Minority Teachers*

During the month of June, we have been receiving minority graduate reports for the Spring 2012 year. We will be sending out the listing to the Pulaski County School Districts later this month.

X. *Financial Assistance to Minority Teacher Candidates*

On April 12, 2012, Ms. Lisa Smith of the Arkansas Department of Higher Education reported Minority Scholarships for Fiscal Year 2011-2012 have been phased out and no awards were given. These included the State Teacher Assistance Resource (STAR) Program, the Minority Teacher Scholars (MTS) Program, and the Minority Masters Fellows (MMF) Program.

XI. *Minority Recruitment of ADE Staff*

The MRC met on April 13, 2012 at the ADE. The MRC plan calls for ADE to maintain a 25% minority (black) employment rate in each division of the department and in the department as a whole for employees rated at Grade 21 and above (not including Grade 99's). Due to the revision in the employee grade system by the Office of Personnel Management, Grades C121 to C130 were used for the purpose of this report. A graph was also presented that showed the percentage of black, white and other employees for the ADE as a whole and by division. During the quarter ending March 31, 2012, three of the divisions, Central Administration, Accountability and Research & Technology, exceeded the 25% threshold. The ADE as a whole was 20% Black.

XII. *School Construction*

This goal is completed. No additional reporting is required.

XIII. *Assist PCSSD by communicating with local colleges and universities to facilitate lowering the cost of Black History course offerings to its certified staff*

Goal completed as of June 1995.

XIV. *Scattered Site Housing*

This goal is completed. No additional reporting is required.

XV. *Standardized Test Selection to Determine Loan Forgiveness*

Goal completed as of March 2001.

XVI. *Monitor School Improvement Plans - Follow-up and assist schools that have difficulty realizing their school improvement objectives*

On August 25, 2011, ADE staff held an ACSIP meeting at NLRSD. The meeting was held in Kristie Ratliff's office to discuss ACSIP requirements. Diane Gross discussed priorities, interventions, and actions and stressed that actions in the ACSIP plan must be very focused and clear. It was suggested that NLRSD put the budget codes in the action for the Bookkeeper's reference when paying out. The Peer Review Process for approving building plans was discussed. In addition to the ACSIP, discussions were held about Title III and State ELL expenditures and making sure monies are being spent in a way the EL students are being served. The need for spending the dollars in the buildings where the students are located was also pointed out.

XVII. *Data Collection*

The ADE Office of Public School Academic Accountability has released the 2010 Arkansas School Performance Report (Report Card). The purpose of the Arkansas School Performance Report is to generally improve public school accountability, to provide benchmarks for measuring individual school improvement, and to empower parents and guardians of children enrolled in Arkansas public schools by providing them with the information to judge the quality of their schools. The Department of Education annually produces a school performance report for each individual public school in the state.

XVIII. *Work with the Parties and ODM to Develop Proposed Revisions to ADE's Monitoring and Reporting Obligations*

On April 11, 2012, the ADE held a Desegregation Monitoring and Assistance Plan Meeting. Those in attendance were Margie Powell, Willie Morris, Aleta Fletcher, Terri Williams, Sherman Whitfield, and Dr. Brenda Bowles. During the meeting the following items were discussed:

- Dr. Bowles summarized the meeting on April 5, 2012 which included a discussion and review of academic and discipline interventions used to assist students by school.
- Dr. Bowles shared a draft of the Tiered System of Interventions for Discipline that was developed in preparation for the Discipline Committee Meeting(s) April 23-24, 2012 and discussed the purpose for developing the tiered system.
- The Discipline Committee members have been identified, with the exception of Joshua, and are currently confirming their attendance at the meeting.
- Dr. Bradley Scott, with EAC, will be in attendance at the Discipline Committee Meeting, to assist the District in developing a District Discipline Intervention System.
- Ms. Powell asked if the District Steering Committee had completed the scoring of the ACSIP Plans for each school. Dr. Bowles stated that it had been completed as of Tuesday's meeting on April 10, 2012.
- Dr. Bowles shared that data regarding retention for students in grades 6-12 by school, race, and gender provided by Dr. Clowers, will be made available for the Committee to peruse and discuss during the meeting(s).

XVIII. Work with the Parties and ODM to Develop Proposed Revisions to ADE's Monitoring and Reporting Obligations (Continued)

- Mr. Morris inquired how the data was being used to make decisions with reference to interventions, retention, etc. Dr. Bowles stated that she defer those questions to Dr. Remele and Dr. Clowers.
- The group agreed to cancel our next schedule meeting on April 25, 2012 due to the Discipline Committee Meetings that week.

The next meeting is tentatively scheduled for **Wednesday, May 9, 2012 at 2:30 p.m.** in the Equity and Pupil Services Conference Room.

NEWLY EMPLOYED FOR THE PERIOD OF May 19, 2012– June 15, 2012

Sherry Holliman – Public School Program Coordinator, Grade C123, Division of Learning Services, Special Education, effective 06/11/12.

Mindy Looney – Fiscal Support Manager, Grade C123, Division of Fiscal and Administrative Services, Fiscal Distress Services, effective 05/29/12.

*Gayle Walton – Administrative Specialist II, Grade C109, Division of Fiscal and Administrative Services, Child Nutrition, effective 05/29/12.

PROMOTIONS/LATERAL TRANSFERS FOR THE PERIOD OF May 19, 2012– June 15, 2012

*Linda Jenkins – from Information Systems Business Analyst, Grade C122, Division of Research and Technology, Data Reporting and Systems to Senior Software Support Analyst, Grade C123, Division of Research and Technology, Data Reporting and Systems, effective 05/28/12. Promotion

*Tashunda Williams – from Administrative Specialist III, Grade C112, Division of Research and Technology, Technical Support, to Help Desk Specialist, Grade C115, Division of Research and Technology, Technical Support, effective 05/28/12. Promotion

SEPARATIONS FOR THE PERIOD OF May 19, 2012– June 15, 2012

Brent Coney – Information Systems Business Analyst, Grade C122, Division of Research and Technology, Data Reporting and Systems, effective 06/15/2012. 0 Years, 1 month, 22 days. 01

Mary Ann Duncan – Public School Program Coordinator, Grade C123, Division of Learning Services, Charter/Home School, effective 05/25/12. 6 Years, 7 months, 22 days. 12

Jodie Fairchild – Administrative Analyst, Grade C115, Division of Learning Services, Charter/Home School, effective 05/25/12. 2 Years, 8 months, 11 days. 01

Kristin Kaiser-Allen – Nutritionist Consultant, Grade C121, Division of Fiscal and Administrative Services, Child Nutrition, effective 06/01/12. 2 Years, 11 months, 16 days. 01

*Tracie Sheard – Fiscal Support Analyst, Grade C115, Division of Fiscal and Administrative Services, Arkansas Public School Computer Network (APSCN), effective 05/18/12. 1 Year, 1 month, 0 days. 01

*Minority

AASIS Codes:

01- Voluntary

12- Relocation

Arkansas Better Chance Grants 2012-2013

Agency	Vendor Number	Description	Amount
Arkansas Children's Hospital	0600000308	Monitoring/Technical Assistance	\$ 390,000.00
Arkansas State University Childhood Services	9901250001	Professional Development	\$ 311,228.00
Arkansas State University Childhood Services	9901250001	ERS Assessment & TA	\$ 894,465.00
Arkansas State University Childhood Services	9901250001	Professional Development	\$ 475,742.00
Arkansas State University Childhood Services	9901250001	Professional Development	\$ 346,677.00
Arkansas State University Childhood Services	9901250001	Professional Development	\$ 151,548.00
Arkansas State University Childhood Services	9901250001	Work Sampling Assessment & TA	\$ 855,000.00
Dawson Education COOP	100050744	Professional Development	\$ 356,250.00
Jefferson Comprehensive Care PAT	100029541	Monitoring/Technical Assistance	\$ 69,000.00
UA Cooperative Extension	9901450018	Professional Development	\$ 237,500.00
UAMS Family & Prev Med	9991388	Professional Development	\$ 130,000.00
UAMS Family & Prev Med-Mental Health	9991388	Professional Development	\$ 200,000.00
UAMS Healthy Hearts	9990156	Professional Development	\$ 50,000.00
UAMS Pediatrics	9991363	Professional Development	\$ 87,500.00
UAMS Psychiatry	9999200	Professional Development	\$ 340,000.00
UAMS Welcome The Children	9991391	Professional Development	\$ 137,500.00
University of Arkansas Sponsored Programs	9990139	Professional Development	\$ 1,832,234.00
White River Planning & Dev District	600003447	Professional Development	\$ 57,750.00
ABC Children's Academy	100049543	Direct Services	\$ 291,600.00
Booneville School District	0000200062	Direct Services	\$ 97,200.00
DeQueen Mena Ed Coop	0000200750	Direct Services	\$ 184,680.00
Dumas Public Schools	0000200170	Direct Services	\$ 97,200.00
Early Horizons Child Dev Center	0600001190	Direct Services	\$ 48,600.00
Helena W. Helena SD HIPPY	0000200285	Direct Services	\$ 252,720.00
Kids 1st	0600001800	Direct Services	\$ 38,880.00
KIPP Delta	0000200737	Direct Services	\$ 97,200.00
Lamar School District	0000200329	Direct Services	\$ 97,200.00
Little Angels of Prescott	100146733	Direct Services	\$ 87,480.00
Little Rock School District	0000200381	Direct Services	\$ 97,200.00
Lonoke School District	0000200385	Direct Services	\$ 194,400.00

My First School	100168143	Direct Services	\$ 19,440.00
Ozark School District	0000200488	Direct Services	\$ 97,200.00
Paris School District Consortium	0000200502	Direct Services	\$ 38,880.00
Pulaski Co Special School District	0000200549	Direct Services	\$ 97,200.00
Russellville School District	0000200577	Direct Services	\$ 651,240.00
South Conway Co School District	0000200603	Direct Services	\$ 38,880.00
Stuttgart School District	0000200639	Direct Services	\$ 38,880.00
Waldron Public Schools	0000200673	Direct Services	\$ 34,020.00
Westside School District	0000200702	Direct Services	\$ 97,200.00
Wynne Community Enlightenment	0600003500	Direct Services	\$ 97,200.00
TOTAL			<u>\$ 9,716,894.00</u>

ARKADELPHIA PUBLIC SCHOOLS
235 NORTH ELEVENTH STREET
ARKADELPHIA, ARKANSAS 71923

Mr. Jeremy Lasiter
Legal Services
Arkansas Department of Education
#4 State Capitol Mall, Room 404-A
Little Rock, AR 72201

February 27, 2012

Mr. Lasiter:

I am writing to request a waiver, for the 2012-13 school year, for section 10.02.5 of the Arkansas Department of Education Rules Governing Standards for Accreditation of Arkansas Public Schools and School Districts, July 2009. Section 10.02.5 requires:

In grades seven through twelve, a teacher shall not be assigned more than one hundred fifty (150) students; an individual academic class shall not exceed thirty (30) students, provided that, in exceptional cases or for courses that lend themselves to large group instruction, these ratios may be increased.

Arkadelphia High School has recently been accepted into the New Tech Network (NTN) as part of the State's STEM Works initiative. Implementation will begin with the freshman class of 2012-13. There are currently 158 students enrolled in that cohort. We are in the process of staffing and scheduling for NTN. Allowing a teacher to serve more than 150 students would make this process much easier and allow us to send fewer teachers to the initial trainings.

If you have any questions or require further information, please contact me. Thank you for your consideration.

Respectfully submitted,



Jeanette Turner
Director of Curriculum and Instruction
Arkadelphia Public Schools
235 North Eleventh Street
Arkadelphia, AR 71923
870-246-5563 ext. 202 1218

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Mr. Donnie Whitten, Supt.
 Arkadelphia School District
 235 North 11th
 Arkadelphia, AR 71923

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 Mr. Donnie Whitten, Supt.
 Arkadelphia School District
 235 North 11th
 Arkadelphia, AR 71923

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ARKANSAS DEPARTMENT OF EDUCATION

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Little Rock

May 25, 2012

Mr. Donnie Whitten, Superintendent
Arkadelphia School District
235 North 11th
Arkadelphia, AR 71923

**Re: Request for Waiver
(VIA CERTIFIED AND REGULAR MAIL)**

Mr. Whitten:

On or about March 01, 2012, the Arkansas Department of Education received a request for waiver of the Standards for Accreditation from the Arkadelphia School District. The request is for a waiver from the requirements of Rule 10.02.5 of the Rules Governing Standards for Accreditation of Arkansas Public Schools and School Districts (July 2009). Rule 10.02.5 requires:

In grades seven through twelve, a teacher shall not be assigned more than one hundred fifty (150) students; an individual academic class shall not exceed thirty (30) students, provided that, in exceptional cases or for courses that lend themselves to large group instruction, these ratios may be increased.

This waiver was requested specifically for Arkadelphia High School to allow teachers to exceed the one hundred fifty (150) students per day maximum. If approved, the waiver will only apply to Arkadelphia High School and only for the 2012-13 school year.

You are invited to appear before the State Board of Education at the next regularly scheduled meeting to be held on Monday, July 09, 2012 at 09:00 a.m. to present the district's request for a waiver.

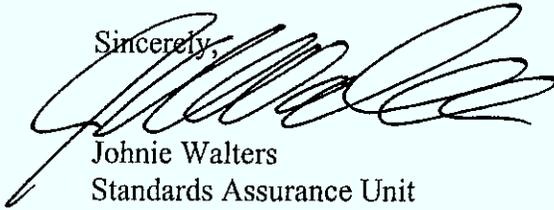
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Little Rock, AR
72201-1019
(501) 682-4475
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Donnie Whitten
May 25, 2012
Page Two

Thank you for your attention to this matter. Please contact me at 501-682-4555 should you have any questions or require additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Johnie Walters", written over the word "Sincerely,".

Johnie Walters
Standards Assurance Unit

cc: Tom W. Kimbrell, Ed.D, Commissioner of Education
Mr. John Hoy, Assistant Commissioner, Division of Academic Accountability
Jeremy C. Lasiter, General Counsel
State Board Office

MOUNTAIN VIEW SCHOOL DISTRICT

210 High School Drive
Mountain View, Arkansas 72560



Phone (870) 269-3443

Fax (870) 269-3446

May 10, 2012

Dr. Tracy Tucker, Director
Arkansas Department of Education
Curriculum and Instruction
Four Capitol Mall, Room 301-B
Little Rock, AR 72201

Mrs. Tucker,

For the past several years Timbo High School has offered French I and French II to meet the foreign language requirements for school accreditation. At the end of this year, the teacher who has been teaching these classes is retiring. If possible, I would like to offer Spanish classes beginning next year. However, standards require that two classes of the same foreign language be taught each year. I would like to request a waiver from this requirement for the 2012-2013 school year as the school is in transition from French to Spanish. The school proposes to offer Spanish I and French II by Distance Learning. This would allow lower grade level students to enroll in Spanish I and would allow students who have completed French I to take French II, if they so desire. Also, since none of our students have taken Spanish I, we will have no students to enroll in Spanish II next year. The following year, 2013-2014, Spanish I and Spanish II would be offered.

Any assistance you can offer would be greatly appreciated.

Sincerely,

Steve Lucas
Principal
Timbo High School

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Mr. Rowdy Ross, Superintendent
 Mountain View School District
 210 High School Drive
 Mountain View, AR 72560

PS Form 3800, All

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<p>1. Article Addressed to:</p> <p>Mr. Rowdy Ross, Superintendent Mountain View School District 210 High School Drive Mountain View, AR 72560</p>	<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>
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ARKANSAS DEPARTMENT OF EDUCATION

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Little Rock

May 25, 2012

Mr. Rowdy Ross, Superintendent
Mountain View School District
210 High School Drive
Mountain View, AR 72560

**Re: Request for Waiver
(VIA CERTIFIED AND REGULAR MAIL)**

Mr. Ross:

On May 21, 2012, the Arkansas Department of Education received a request for waiver of the Standards for Accreditation from the Mountain View School District. The request is for a waiver from the requirements of Rule 9.03.4.4 of the Rules Governing Standards for Accreditation of Arkansas Public Schools and School Districts (July 2009). Rule 9.03.4.4 requires:

Foreign Language – two units of the same language

This waiver was requested specifically for Timbo High School to allow the high school to transition from teaching French to teaching Spanish. If approved, the waiver will only apply to Timbo High School and only for the 2012-13 school year.

You are invited to appear before the State Board of Education at the next regularly scheduled meeting to be held on Monday, July 09, 2012 at 09:00 a.m. to present the district's request for a waiver.

Four Capitol Mall
Little Rock, AR
72201-1019
(501) 682-4475
ArkansasEd.org

Rowdy Ross
May 25, 2012
Page Two

Thank you for your attention to this matter. Please contact me at 501-682-4555 should you have any questions or require additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Johnie Walters", written over the word "Sincerely,".

Johnie Walters
Standards Assurance Unit

cc: Tom W. Kimbrell, Ed.D, Commissioner of Education
Mr. John Hoy, Assistant Commissioner, Division of Academic Accountability
Jeremy C. Lasiter, General Counsel
State Board Office

Arkansas Governor's School Site Selection 2013-2015

As per Arkansas Department of Education (ADE) Rules Governing Arkansas Governor's School Site Selection (January 2004), the ADE made available proposals to host Arkansas Governor's School for 2013-2015 to presidents of all Arkansas four-year colleges and universities on January 15, 2012. Act 269 of 2012 increased the annual appropriation for Arkansas Governor's School by \$250,000 and extended the duration of the program from four weeks to six weeks. A second request for proposals was sent to the presidents of all Arkansas four-year colleges and universities on May 2, 2012, reflecting the change in the law. The schools were informed that this appropriation may not be available past 2013 (see Section 33 of Act 269). Renewal of the grant is contingent on successful operation.

Act 106 (Ark. Code. 6-42-106, Repl. 1999), of the regular Session of the 1979 General Assembly authorized the establishment of an Arkansas Governor's School to be held annually for rising seniors. Since its inception in the summer of 1980, over 11,200 Arkansas high school students have participated.

Proposals from interested institutions were due to the Office of Gifted and Talented May 18, 2012. One application was received from Hendrix College. There were no phone calls, e-mails or written inquiries from other institutions in the state regarding proposals following the request for proposals after Act 269. Seeing that Hendrix College has received the site selection award since its inception and considering that staff from the Office of Gifted and Talented are in constant contact with Governor's School, it was determined unnecessary to assemble a site selection committee for a site visit as is done when two or more applications are received. The application was critically read by Office of Gifted and Talented staff and a recommendation for Hendrix College was put forward.

The Governor's School will be under the jurisdiction of the State Board of Education and the Arkansas Department of Education. The staff of the office of Gifted and Talented Education will have primary responsibility for coordination. A director will be named to oversee the operation and management for the duration of the school.

The Governor's Advisory Council for Gifted Education approved the recommendation for Hendrix College.

Pursuant to Arkansas Code 6-17-413, state-funded candidates for National Board for Professional Teaching Standards (NBPTS) certification must repay all funds the state contributed if:

- The candidate fails to achieve NBPTS certification within the allowed three (3) year candidacy period; or
- After achieving NBPTS certification, the candidate does not teach an additional three (3) years in an Arkansas public school.

(b) (1) A teacher who receives state moneys for the participation fee of the national board but who does not complete the certification process within three (3) years after the teacher's entry into the certification program of the national board or who becomes certified by the national board but does not teach or serve as a building-level principal or building-level assistant principal in the Arkansas public school system for three (3) continuous school years after receiving the certification by the national board shall repay the department the amount it contributed to the participation fee of the national board and the total amount it contributed to any yearly bonus.

(2) If the teacher, principal, or assistant principal leaves the employment of a public school district before the three (3) continuous years are completed and is employed by an Arkansas institution of higher education or employed by an education service cooperative and the teacher does not teach in a classroom with students, the teacher, principal, or assistant principal shall repay the department the amount it contributed to the participation fee of the national board and the total amount it contributed to any yearly salary bonus.

(3) The State Board of Education may suspend the Arkansas teacher's license of any person that fails, when required to do so, to repay moneys contributed by the department for the certification program of the national board.

<p>Mrs. Robin Carraway</p> <p>615 Stamps Drive Stamps, AR 71860</p> <p>NBPTS Candidacy Year: 2004 Teaching License Status: Current (December 31, 2013)</p> <p>Employed: Not employed at LaFayette County SD as indicated in APSCN</p> <p>Debt to State: \$2,300.00</p>	<ul style="list-style-type: none"> • CONTACTED OTQ 8/11/2008 SEEKING PAYMENT OPTIONS; • FINAL COLLECTION CERTIFIED LETTER MAILED 3/9/2009; NO REPLY; • LICENSE SUSPENSION EMAIL SENT 1/27/2010; email from Mrs. Carraway with intent to pay debt on 1/28/10; • Full debt will be paid by end of April 2010. • Asked for payment extension to end of June 2010. • RECEIVED BANKRUPTCY NOTICE 9/13/2010; Received letter from U.S. Bankruptcy Court on 3/12/12 dismissing her Chapter 13 order due to a failure to make plan payments;
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	<p>copy forwarded to Drew Blankenship in Legal Services on 3/12/12.</p> <ul style="list-style-type: none"> • NEW collection email w/ invoice sent 3/27/12 but returned unclaimed. • Cert. SBE letter sent 4/13/12; cert. letter returned undelivered on 5/18/12 • APSCN lists her as employed at LaFayette County SD, but she is no longer employed there (5/23/12)
<p>Mrs. Kelly McMahan (Meek)</p> <p>370 Hwy 124 Damascus, AR 72039</p> <p>NBPTS Candidacy Year: 2006 Teaching License Status: Expired (December 31, 2010) Employed: Not in APSCN Debt to State: \$2,500.00</p>	<ul style="list-style-type: none"> • 2006 state-funded candidate who achieved NB certification (2007) but did not teach two (2) more years after achieving certification; • Sent email inquiring about her teaching status on 3/26/12; • Teaching license expired 2010; • Cert. collection letter mailed 3/28/12; collection letter returned undelivered on 4/27/12 • Not listed in APSCN
<p>Mrs. Erika Sams</p> <p>701 Polk Street Conway, AR 72032</p> <p>NBPTS Candidacy Year: 2007 Teaching License Status: Current (December 31, 2013) Employed: Not employed at Stuttgart SD as indicated by APSCN Debt to State: \$2,552.00</p>	<ul style="list-style-type: none"> • Email invoice sent 12/13/10; • Received email on 12/13/10, will pay by April 15, 2011; • Delinquent payment email sent 4/21/11; • Cert. letter sent 5/13/11; cert letter receipt received on 5/17/11; • FINAL EMAIL REMINDER SENT 8/15/11; • Received email from Erika's husband on 10/28/11 indicating payment was forthcoming; • Email and cert. letter sent 1/24/11 regarding SBE action; • Cert. letter returned 1/30/12 but gave a forwarding address. Cert. letter sent to forwarding address on 1/30/12. • Received cert. letter receipt on 2/2/12 • Sent email to Dustin Sams (husband?), who signed for the cert. letter on 2/2/12, seeking information on Mrs. Sams' payment. • Sent cert. SBE action letter on 6/6/12 • No contact as of 6/14/12

ARKANSAS CUT SCORES/CORRESPONDING PERCENTILES

Praxis I - GRE

Praxis I Performance Data for Arkansas Test Takers, September 2008 - August 2011

Reading N = 11,303	APR* = 173 - 183	Possible Range = 150-190
Math N = 11,414	APR* = 174 - 181	Possible Range = 150-190
Writing N = 12,162	APR* = 173 - 178	Possible Range = 150-190

* Average Performance Range

Praxis I Cut Scores - Corresponding Percentile Ranks

TEST	Current Cut Score	%ile Rank
Reading (9710)	172	17
Math (9730)	171	17
Writing (9720)	173	25

Praxis I Pass Rates/Mean Scores 2008-11 (AR)

TEST	# Tested	# Pass	% Pass	Mean Scores
Reading	11,303	9,397	83%	177
Math	11,414	9,313	82%	177
Writing	12,162	8,942	74%	175

GRE Cut Scores - Corresponding Percentile Ranks

SUBTEST	Old Cut Scores	Adjusted Scores	%ile Rank	Recommended Scores	%ile Rank
Verbal Reasoning	370	144	26	142	18
Quantitative Reasoning	370	138	7	142	19
Analytical Writing	4.5	4.5	72	3.5	29

GRE Mean Scores 2008-11 (AR)

Old Score	New Score	%ile Rank	N
445	149	42	8161
517	144	26	8161
3.67	3.67	31	8161



ARKANSAS DEPARTMENT OF EDUCATION

Critical Academic Licensure Shortage Areas 2012-2013 School Year

Pursuant to A.C.A. § 6-81-601 et seq. and A.C.A. § 6-85-109, the Arkansas Department of Education has designated the following areas as critical academic licensure/endorsement shortage areas for the 2012-2013 school year.

Licensure Areas:

Mathematics (Secondary)

Mathematics (7-12)

Middle Childhood

Mathematics/Science (4-8)

English/Language Arts/Social Studies (4-8)

Special Education

Deaf Education

Visually Impaired

Speech Language Pathologist/

Speech Therapist

Special Education Instructional

Specialist (P-4 and 4-12) **or**

(Old Licenses: {K-12} Mildly Handicapped,

Moderately/Profound Handicapped

Severely Emotionally Disturbed)

Science (Secondary)

Life/Earth Science (7-12)

Physical/Earth Science (7-12)

or (Old Licenses: Biology/Chemistry/
Physical Science/Physics)

Endorsements:

Library Media

Gifted and Talented

School Counselor

English as Second Language (ESL)

ARKANSAS DEPARTMENT OF EDUCATION
RULES GOVERNING CONCURRENT COLLEGE AND HIGH SCHOOL CREDIT FOR
STUDENTS WHO HAVE COMPLETED THE EIGHTH GRADE
October 10, 2011

1.0 PURPOSE

- 1.01 The purpose of these rules is to establish the requirements and procedures concerning concurrent college and high school credit for students who have completed the eighth grade.

2.0 REGULATORY AUTHORITY

- 2.01 These rules shall be known as the Arkansas Department of Education Rules Governing Concurrent College and High School Credit for Students Who Have Completed the Eighth Grade.
- 2.02 These rules are enacted pursuant to the authority of the State Board of Education under Ark. Code Ann. § 6-11-105 and Ark. Code Ann. § 6-18-223.

3.0 DEFINITIONS

- 3.01 A student who “has successfully completed the eighth grade” is a student who has been promoted to the ninth grade.
- 3.02 A student in grades 9-12 is considered "enrolled" in a public secondary school so long as he/she is counted for average daily membership of the school pursuant to Ark. Code Ann. § 6-20-2303(3)(C).
- 3.03 “Private institution” is defined as an institution of higher education accredited by the Western Association of Schools and Colleges, Southern Association of Colleges and Schools, Middle States Association of Colleges and Schools, New England Association of Schools and Colleges, Northwest Association of Schools and Colleges, or North Central Association of Colleges and Schools.

4.0 ENROLLMENT GUIDELINES FOR STUDENTS WHO HAVE COMPLETED THE EIGHTH GRADE

- 4.01 Any student who is enrolled in grades 9-12 in an Arkansas public school shall be eligible to enroll in a publicly supported community college, technical college, four-year college or university, or private institution in accordance with the rules and regulations adopted by the college or university.

4.01.1 If an Arkansas public college or university or private institution requires a college course placement score greater than a score of 19 on the ACT or

an equivalent measure, the public school student must meet that institution's concurrent admissions and course placement requirements.

4.01.2 A student in grade 12 who possesses at least an ACT sub-score of 17 in English, reading or mathematics (or an equivalent measure) may enroll in remedial/developmental education courses in English, reading and mathematics at a publicly supported community college, technical college, four-year college or university, or private institution.

4.01.3 Any institution of higher education offering a remedial/developmental education course(s) must inform the public school student, verbally and in writing, that successful completion of remedial/developmental education courses in English, reading and mathematics at one college or university does not guarantee college course placement at another Arkansas college or university, unless there is a written college course placement agreement with the other Arkansas college or university.

- 4.02 Any public school student in grades 9-12 who enrolls in and successfully completes a course(s) offered by a publicly supported community college, technical college, four-year college or university, or private institution shall be entitled to receive both high school and college grades and credit (credit earned by CLEP examination may not be counted as high school credit) toward graduation, as outlined in these regulations.
- 4.03 Students must comply with applicable enrollment or graduation requirements of the public high school.
- 4.04 Three semester hours of college credit taken by a student in grades 9-12 at a publicly supported community college, technical college, four-year college or university, or private institution shall be the equivalent of one-half unit of high school credit in the same subject area. A three-semester hour remedial/developmental education course shall be the equivalent of one-half unit of credit for a high school career focus elective.
- 4.05 College credit earned at a publicly supported community college, technical college, four-year college or university or private institution by an eligible student shall be counted by the high school toward graduation, including credit earned through summer terms.
- 4.06 The student shall be responsible for all costs of higher education courses taken for concurrent college credit, unless the costs for these courses are paid by the public school district, a grant, or a private foundation. If the costs for a higher education course(s) are paid by the public school district, a grant, or a private foundation, a signed agreement must exist between the public school district, the external entity or foundation, and the publicly-supported or private institution of higher education.

- 4.07 Public school students in grade 12 who are enrolled in remedial/developmental education courses will not be counted for public higher education funding purposes.
- 4.08 Nothing in these rules shall be construed to require Arkansas public schools, publicly supported community colleges, technical colleges, four-year colleges or universities, or private institutions to participate in a concurrent credit program.
- 4.09 Any public school district and publicly supported or private institution of higher education that chooses to participate in a concurrent credit program shall implement and carry out the concurrent credit program in accordance with the rules of the Arkansas State Board of Education and the policies of the Arkansas Higher Education Coordinating Board.

5.0 — 2011-2012 PILOT PROJECT

- ~~5.01 For the 2011-2012 school year only, three semester hours of college credit taken by a public school student in grade 12 at a publicly supported community college, technical college, four-year college or university, or private institution shall be the equivalent of one unit of high school credit in the same subject area which shall count toward high school graduation.~~
- ~~5.02 For the 2011-2012 school year, a student in grade 12 who possesses an ACT score of 17 or 18 may enroll in developmental education courses in English, reading or mathematics at a publicly supported community college, technical college, four-year college or university, or private institution.~~
- ~~5.02.1 A three-semester hour developmental education course shall be the equivalent of one-half unit of credit for a high school career focus elective.~~
- ~~5.02.2 Public school students in grade 12 who successfully complete developmental education courses in English, reading and/or mathematics and who have an exit exam score of **19 or higher** on the ACT or an equivalent measure in that subject area will meet minimum state requirements for placement in college-level courses upon admission to a publicly supported community college, technical college, four-year college or university, or private institution.~~
- ~~5.02.3 If an Arkansas public college or university or private institution requires a course placement score greater than a score of 19 on the ACT or an equivalent measure, the public school student in grade 12 must meet that institution's admissions/placement requirements.~~

~~5.02.4 Public school students in grade 12 who are enrolled in developmental education courses will not be counted for higher education funding purposes.~~

~~5.03 Participation in this pilot program is voluntary. Nothing in this subsection shall be construed to require Arkansas public schools, publicly supported community colleges, technical colleges, four-year colleges or universities, or private institutions to participate in this pilot program.~~

~~5.04 This pilot program will be reviewed by the Arkansas Department of Education and the Arkansas Department of Higher Education. In July 2012, the Arkansas Department of Education and the Arkansas Department of Higher Education shall present its findings to the Arkansas State Board of Education.~~

ARKANSAS DEPARTMENT OF EDUCATION
SPECIAL EDUCATION AND RELATED SERVICES
18.00 REGULATIONS GOVERNING RESIDENTIAL PLACEMENT
Rev. ~~July 2010~~ June 2012

18.01 REGULATORY AUTHORITY

- 18.01.1 These regulations shall be known as Arkansas Department of Education regulations allocating public school funds for the education of residentially placed students and defining educational services in such placements.
- 18.01.2 These regulations are enacted pursuant to the State Board of Education's authority under Ark. Code Ann. 6-11-105, 6-41-202, 6-18-202, 6-20-104, and 6-20-107.

18.02 PURPOSE

- 18.02.1 It is the purpose of these regulations to allocate public school funds for the education of residentially placed students.
- 18.02.2 It is further the purpose of these regulations to define the educational services in such placements.

18.03 DEFINITIONS

- 18.03.1 ADE - Arkansas Department of Education
- 18.03.2 DHS – Department of Human Services
- 18.03.3 Juvenile - As used in this section, "juvenile" means a person who is eighteen (18) years old or less.
- 18.03.4 Juvenile Detention Facility (JDF) - Any facility operated by a political subdivision of the State for the temporary care of juveniles alleged to be delinquent or adjudicated delinquent, and awaiting disposition, who require secure custody in a physically restricting facility. Under Ark. Code Ann. 9-27-330(a)(11), such facility shall afford opportunities for education, recreation, and other rehabilitative services to adjudicated delinquents who may be ordered by the court to remain in the juvenile detention facility for an indeterminate period not to exceed ninety (90) days.

- 18.03.5 Student without disabilities - For purposes of these regulations, a student who has NOT been identified as disabled in accordance with the IDEA, and Ark. Code Ann. 6-41-202, et seq., shall be considered nondisabled.
- 18.03.6 Student with disabilities - For the purposes of these regulations, a student with a disability means a student identified pursuant to the IDEA and Ark. Code Ann. 6-41-202, et seq., as needing special education and related services (inclusive of those presently receiving services).
- 18.03.7 Residential placement in state - For the purposes of these regulations, such residential placement in state means -
- 18.03.7.1 One of the following licensed facilities -
- A. Inpatient psychiatric treatment facilities licensed by the Arkansas Department of Human Services (DHS);
 - B. Alcohol and drug treatment facilities licensed by the Arkansas Department of Human Services;
 - C. Easter Seals of Arkansas in Little Rock;
 - D. Arkansas Pediatrics Facility in Pulaski County;
 - E. Millcreek ICF-MR in Fordyce;
 - F. Brownwood ICF-MR in Fort Smith.
- 18.03.7.2 The facility has an approved special education component; as granted by the ADE, Special Education Unit on an annual basis. Such placement does not include the Arkansas School for the Blind, the Arkansas School for the Deaf or the Arkansas School for Mathematics and Sciences.
- 18.03.8 Residential Placement Out-of-State - For the purposes of these regulations, when a student with disabilities is placed in a residential treatment facility outside the State of Arkansas, the special education component of such a facility must be approved

by the ADE, Special Education Unit and must be operating under the appropriate licensure of the state in which it is located.

18.03.9 Residency - Ark. Code Ann. 6-18-202 establishes residency requirements for students attending public schools in the State of Arkansas. Students affected by this statute include both those with and without disabilities.

18.04 RESIDENTIAL PLACEMENT IN STATE - STUDENTS WITHOUT DISABILITIES

18.04.1 Assignment of responsibility.

18.04.1.1 When a nondisabled student is placed for non-educational reasons in a residential treatment facility for treatment, the district where the residential treatment facility is located is the student's resident district. This district is responsible for educating the student.

18.04.1.2 When a nondisabled student who is a ward of the State is placed in a residential treatment facility, the district where the facility is located is responsible for educating the student.

18.04.1.3 When a nondisabled student is placed in a residential treatment facility for educational purposes by a parent or agent other than the school district, the parent or agent remains responsible for the education of the student.

18.04.2 Procedures for educational management.

18.04.2.1 Each school district must designate an individual who will be responsible for ensuring compliance with these regulations. This may be the district superintendent or a designee.

18.04.2.2 When a nondisabled student is placed in a residential facility, the facility must notify the responsible school district (superintendent or designee) within seven (7) calendar days of the student's admission. The district's superintendent or designee should also be informed.

Failure of the facility to notify the responsible district in a timely fashion may result in loss of ADE approval of the residential treatment facility's special education program.

- 18.04.2.3 The district superintendent or designee shall convene a conference by a review team within seven (7) calendar days of notice by the residential treatment facility that the student is in a residential program. This conference may be conducted face-to-face or via a telephone call.
- 18.04.2.4 The review team shall be composed of, at a minimum, a representative from the district, a representative from the residential treatment facility, and a DHS representative if the student is receiving services from one or more DHS Divisions.
- 18.04.2.5 The review team shall review information available on the student and determine whether a referral for consideration of eligibility for special education and related services is warranted.
- 18.04.2.6 When the review team determines the student should be referred for consideration of eligibility for special education, a referral form must be completed and a referral conference conducted following the process in §4.00 of State Special Education regulations.
- 18.04.2.7 When the review team determines that the student should not be referred for consideration for special education and related services, it must identify the general educational and non-educational needs of the student.
- 18.04.2.8 Based on the identified needs of the nondisabled student, the review team will determine and document where the educational program of the student will be implemented. The inter-linkage of the treatment program needs and educational programming must be discussed in reaching a decision on an appropriate educational setting.

- 18.04.2.9 Should the local review team be unable to agree upon where the educational program of the student will be implemented, a determination must be requested from the state level review panel. Requests for a determination from the state level review panel shall be submitted in writing to the Administrator, Dispute Resolution, ADE, Special Education Unit.
- 18.04.2.10 From the time of the request for a state level review until a determination is made, the student will remain in his/her present educational setting.
- 18.04.2.11 The state level review panel will be composed of three (3) persons: one (1) from the ADE, one (1) from DHS and the third will be the Coordinator of the Behavior Intervention Consultant Network or other appropriate ADE staff.
- 18.04.2.12 Within 30 calendar days of receipt of the written request, the state level review panel shall convene, review all information and render a final decision as to where the education program of the student will be implemented. The panel may extend the process by an additional 15 days should circumstances warrant.
- 18.04.2.13 The state level review panel's decision will be considered final, will be rendered in writing and will be sent to the local review team for implementation.
- 18.04.3 Assignment of costs.
- 18.04.3.1 For nondisabled students, "educational costs" are limited to only those costs incurred for direct educational instruction of the student.
- 18.04.3.2 All other services provided for the student are considered non-educational and are not reimbursable under these regulations. Such other costs will be borne by DHS, Medicaid, private insurance, the parent or by any combination thereof.

- 18.04.3.3 Residential treatment facilities must submit a bill to the school district for educational costs only. The invoice must be itemized to reflect the specific services provided. Invoices must be submitted to the school district in a timely manner in order for the district to seek reimbursement from the ADE, Special Education Unit.
- 18.04.4 Funding.
 - 18.04.4.1 A local school district may access funds through the ADE, Special Education Unit for reimbursement for educational costs on nondisabled students placed in residential treatment facilities.
 - 18.04.4.2 The maximum amount a district may be reimbursed on a per student basis for actual educational costs will be the Formula Foundation Aid times 2.00.
 - 18.04.4.3 The local school district shall not be responsible for educational costs exceeding its maximum reimbursement rate for those nondisabled students receiving educational services in a residential treatment facility.
 - 18.04.4.4 When the requests for reimbursement exceed the amount of funds available, the reimbursement will be prorated.
- 18.04.5 Extended School Year Services (ESY).
 - 18.04.5.1 There is no provision for extended school year (educational) services to nondisabled students when schools are not in session. This applies to nondisabled students in residential placements, as well as their nondisabled peers who attend the local public school. Therefore, there is no need for a district to convene a review team during the summer months when school is not in session.
 - 18.04.5.2 Residential treatment facilities cannot bill school districts for educational services provided to nondisabled students during the summer months.

18.05 RESIDENTIAL PLACEMENT IN STATE - STUDENTS WITH DISABILITIES

- 18.05.1 Assignment of responsibility.
 - 18.05.1.1 For students with disabilities in state-operated facilities (such as the Human Development Centers) the facility is responsible for procedural safeguards and the provision of FAPE.
 - 18.05.1.2 When a student with a disability is placed for non-educational reasons in a residential treatment facility for treatment, the district where the facility is located is the student's resident district. The district shall be responsible for procedural safeguards and the provision of FAPE.
 - 18.05.1.3 When a student with a disability who is a ward of the state is placed in a residential treatment facility, the district where the residential treatment facility is located is responsible for educating the student.
 - 18.05.1.4 When a student with a disability is placed in a residential treatment facility for educational purposes by a school district, the placing district remains responsible for procedural safeguards and the provision of FAPE.
 - 18.05.1.5 When a student with a disability is placed in a residential treatment facility for educational purposes by a parent or agent other than the school district, the parent may petition the district where the student permanently resides (home district, usually that of the student's parent or guardian) for provision of procedural safeguards and FAPE.
- 18.05.2 Procedural safeguards.
 - 18.05.2.1 The procedural safeguards specified in §9.00 of these regulations shall be followed.
- 18.05.3 Assignment of costs.
 - 18.05.3.1 The State Department of Education, a public school district, or an open-enrollment charter school shall

not be liable for any education costs associated with the placement of a juvenile in an in-state residential or inpatient facility for any care and treatment, including psychiatric treatment, unless:

- A. The Department authorized public payment for educational costs based on a determination that the educational program and facilities are appropriate for the juvenile and the Department has approved the facility's education program; and
- B. Each program authorization precedes the placement.
- C. If the program is not authorized prior to the placement, the Department, public school districts, or open-enrollment charter schools shall not be responsible for education or other related costs, nor shall they be subject to any order to pay for educational or other related costs.

18.05.3.2 The liability of the Department, a public school district, or an open-enrollment charter school for the educational costs or other related costs shall be limited to -

- A. The reimbursement rate established by the Department for a juvenile placed in a residential or inpatient facility.

18.05.3.3 For identified students with disabilities, those costs defined as being educational in accordance with the IDEA will be borne by the district responsible for provision of procedural safeguards and FAPE. For students in state-operated facilities, the facility assumes those costs.

18.05.3.4 All other costs will be borne by either DHS, Medicaid, private insurance, the parent or by any combination thereof.

18.05.4 Funding.

- 18.05.4.1 School districts may be reimbursed for the educational costs of students with disabilities, including those in school districts not qualifying for any State Equalization Aid, who have been placed in approved residential treatment facilities, as defined by the ADE, Special Education Unit.
- 18.05.4.2 The maximum amount to be reimbursed to a district on a per student basis is the amount equal to the product of the Formula Foundation Aid times 2.10, regardless of the setting in which the education is provided. (For example, there may be instances where the student resides in a residential treatment facility but attends the public school for educational purposes.)
- 18.05.4.3 When the requests for reimbursement exceed the amount of funds available, the reimbursement will be prorated.

18.05.5 Extended School Year Services (ESY).

- 18.05.5.1 Not all students with disabilities receiving educational services in residential placement will be eligible for or in need of ESY services.
- 18.05.5.2 Determination of student eligibility for ESY services is made by the school district based on the regulations governing ESY in §19.00 of these regulations.

18.05.6 This section shall not apply to a juvenile placed in an Arkansas juvenile detention facility as defined in Ark. Code Ann. 6-20-104.

18.06 RESIDENTIAL PLACEMENT OUT-OF-STATE - CHILDREN WITH DISABILITIES

18.06.1 Assignment of responsibility.

- 18.06.1.1 When a student with a disability is placed in a residential treatment facility for educational purposes by a school district, the placing school district remains responsible for procedural safeguards and the provision of FAPE.

18.06.1.2 When a student with a disability is unilaterally placed in a residential facility for educational purposes by a parent or agent other than the school district, the parent may petition the school district where the student permanently resides (home school district, usually that of the student's parent or guardian) for consideration of the provision of procedural safeguards and FAPE.

18.06.1.3 In accordance with the Interagency Agreement between the ADE and DHS, when a child with a disability is a ward of the state and is placed in a residential treatment facility outside the boundaries of the State of Arkansas, the ADE is responsible for procedural safeguards and FAPE.

18.06.2 Procedural safeguards.

18.06.2.1 The procedural safeguards specified in §9.00 of these regulations shall be followed.

18.06.3 Assignment of costs.

18.06.3.1 The Department of Education, a public school district, or an open-enrollment charter school shall not be liable for any educational costs or other related costs associated with the placement of a juvenile in an out-of-state residential or inpatient facility for any care and treatment, including psychiatric treatment, unless:

A. At the time of placement:

1. The juvenile qualifies as disabled under the Individuals with Disabilities Education Act, 20 U.S.C. §1400 et seq.; and
2. Payment is required under the Individuals with Disabilities Education Act;

B. The Department authorizes public payment for educational costs based on a

determination that the educational program and facilities are appropriate for the juvenile and the Department has approved the facility's education program; and

- C. Each program authorization precedes the placement.
 - 1. If the program is not authorized prior to placement, the department, public school districts, or open-enrollment charter schools shall not be responsible for education or other related costs, nor shall they be subject to any order to pay for educational or other related costs.

18.06.3.2 Nothing in this section shall be construed to require payment by the Department, a public school district, or an open-enrollment charter school for education costs and other related costs associated with the placement of a juvenile in an out-of-state residential or inpatient facility for any care or treatment, including psychiatric treatment, prior to April 7, 2005.

18.06.3.3 For identified students with disabilities, those costs defined as being educational in accordance with the IDEA will be borne by the district/agency responsible for provision of procedural safeguards and FAPE.

18.06.3.4 All other costs will be borne by either DHS, Medicaid, private insurance, the parent or by any combination thereof.

18.06.3.5 The liability of the Department, a public school district, or an open-enrollment charter school for the educational costs or other IDEA related costs shall be limited to the lesser of -

- A. The reimbursement rate established by the Department for a juvenile placed in a residential or inpatient facility; or,

- B. The normal and customary educational cost reimbursement rate of the state in which a juvenile is placed in an out-of-state residential or inpatient facility as determined by the Department.

18.06.4 Funding.

18.06.4.1 School districts may request reimbursement for the educational costs of a student with disabilities placed in an approved residential treatment facility located outside the boundaries of Arkansas. Reimbursement may be used to fund the cost of such placement incurred by a school district.

18.06.4.2 Reimbursement for this cost to the district will be calculated on the basis of Ark. Code Ann. 6-20-107(d)(2).

18.06.4.3 When requests for reimbursement exceed the amount of funds available, the reimbursement will be prorated.

18.06.5 Extended School Year Services (ESY).

18.06.5.1 Not all students with disabilities receiving educational services in residential placement will be eligible for or in need of ESY services.

18.06.5.2 Determination of student eligibility for ESY services is made by the school district/agency based on the regulations governing ESY in §19.00 of these regulations.

18.07 JUVENILE DETENTION FACILITIES

18.07.1 General.

18.07.1.1 For the purposes of these regulations, juvenile detention facilities are designated as approved residential treatment facilities.

18.07.1.2 Pre-adjudicated Students. ~~The juvenile detention facility and the district where the juvenile detention facility is located are designated as responsible for~~

~~educating the student consistent with federal and state laws for any period of time the student is being detained in the facility.~~

A. The juvenile detention facility and the resident district of the student are designated as responsible for educating the student consistent with federal and state laws during the period of time the student is being detained in the facility awaiting adjudication.

B. The resident district of a student who is being detained in a juvenile detention facility shall work cooperatively with the juvenile detention facility to provide the student with the curriculum, textbooks, or other materials necessary to educate the student during the period of time the student is being detained in the facility awaiting adjudication.

18.07.1.3 ~~Students ordered to a juvenile detention facility for nine (9) days or less. The resident district of a student who is being detained in a juvenile detention facility is designated as responsible for the timely transfer of a student's educational records to the district where the juvenile detention facility is located upon notification by the court or district where the facility is located of the student's placement in a juvenile detention facility.~~

A. The juvenile detention facility and the resident district of the student are designated as responsible for educating the student consistent with federal and state laws once the student has been ordered to the facility for nine (9) days or less.

B. The resident district of a student who is ordered to a juvenile detention facility shall work cooperatively with the juvenile detention facility to provide the student with the curriculum, textbooks, or other materials necessary to educate the student once the

student has been ordered to the facility for nine (9) days or less

18.07.1.4 Students ordered to a juvenile detention facility for ten (10) days or more.

A. The juvenile detention facility and the district where the juvenile detention facility is located are designated as responsible for educating the student consistent with federal and state laws once the student has been ordered to the facility for ten (10) days or more.

B. The district where the juvenile detention facility is located shall work cooperatively with the juvenile detention facility to provide the student with the curriculum, textbooks, or other materials necessary to educate the student once the student has been ordered to the facility for ten (10) days or more.

18.07.1.5 The resident district of a student who has been ordered to a juvenile detention facility for ten (10) days or more is responsible for the timely transfer of a student's educational records to the district where the juvenile detention facility is located.

18.07.2 Educational services for nondisabled students.

18.07.2.1 In order to be eligible for public school funds, each juvenile detention facility must provide the following educational services for nondisabled students -

A. The teachers employed by the juvenile detention facility must hold a valid teaching license from the Arkansas Department of Education.

B. The maximum teacher/student caseload must be 1 to 15 without a paraprofessional and 1 to 24 with a full time paraprofessional.

- C. The juvenile detention facility must provide instruction that addresses the State's Curriculum Standards and educational skills needed by students and appropriately address the age ranges and the abilities of the students in the facility.
- D. The juvenile detention facility must provide appropriate instructional and supplemental materials and media as are needed to enhance student instruction. Such materials include, but are not limited to, reference materials, dictionaries, maps, reading materials, and computer enhanced instructional software and/or internet access.
- E. The juvenile detention facility must provide planned instructional time in each school day averaging not less than six (6) hours per day or thirty (30) hours per week.

18.07.2.2 A school district which receives a student after attendance at a juvenile detention facility shall not use absences incurred as a result of detention as a basis for denial of credit.

18.07.3 Educational services for disabled students.

18.07.3.1 In order to be eligible for public school funds, each jurisdictional school district and juvenile detention facility must provide the following educational services for disabled students -

- A. FAPE consistent with the student's IEP.
- B. The teacher, employed by the JDF or local school district, who is implementing the IEP of a student with a disability must either -
 - 1. Hold a valid teaching license as a special education teacher, or
 - 2. Meet the qualifications in §18.07.2.1A above and implement the IEP in collaborative consultation

with licensed special education personnel.

- C. The procedural safeguards specified in these regulations shall be followed for those students identified as disabled and for those suspected of being disabled.

18.07.4 Funding for pre-adjudicated students in juvenile detention facilities awaiting adjudication and students ordered to a juvenile detention facility for nine (9) days or less.

18.07.4.1 The resident district of the student may continue to receive funding based on the student's enrollment (average daily membership) in the district. The juvenile detention facility may receive reimbursement from the local school district in which the facility is located for the costs of providing educational services to students in the facility, based upon the following:

- A. ~~For nondisabled students, educational costs are costs incurred for direct educational instruction and include salaries and benefits of teachers and paraprofessionals, staff development costs and substitute pay.~~
- B. ~~For students with disabilities under the IDEA, educational costs include all costs incurred in the provision of FAPE.~~
- C. ~~For students suspected of having disabilities as defined by the IDEA, educational costs shall include costs incurred in the evaluation process.~~

~~18.07.4.2 The juvenile detention facility and the local school district in which the juvenile detention facility is located must jointly determine the education costs incurred by the facility.~~

~~18.07.4.3 The local school district in which the juvenile detention facility is located must reimburse the juvenile detention facility for educational costs incurred up to an amount not to exceed the Formula~~

Foundation Aid, times the number of students in the facility.

~~18.07.4.4~~ If the juvenile detention facility and the local school district cannot agree on an amount for reimbursement, either entity may appeal to the ADE for a final decision.

~~18.07.4.5~~ The ADE must reimburse local school districts which have juvenile detention facilities on a quarterly basis based upon the district requesting such reimbursements.

A. ~~The quarterly reimbursement amount will be determined by dividing the amount identified in §18.07.4.3 by four (4).~~

B. ~~Should costs decrease, the local school district in which the facility is located must notify the ADE, Special Education Unit within thirty (30) days of revised costs.~~

C. ~~Any adjustments to reimbursements based on cost decreases will be made in the fourth (4th) quarter.~~

~~18.07.4.6~~ The jurisdictional local school district may request reimbursement for the costs of educational services provided to students in juvenile detention facilities and incurred by the local school district.

18.07.4.27 The juvenile detention facility must provide the student's resident jurisdictional local school district a weekly ~~quarterly~~ attendance record for each of that district's students ~~student~~ in the facility, regardless of length of stay.

18.07.4.3 Immediately upon receiving notice that a student has been ordered to a juvenile detention facility for ten (10) days or more, the resident district shall drop the student from enrollment.

18.07.5 Funding for students in juvenile detention facilities for ten (10) days or more.

- 18.07.5.1 The juvenile detention facility may receive reimbursement from the local school district in which the facility is located for the costs of providing educational services to students in the facility, based upon the following -
- A. For nondisabled students, educational costs are costs incurred for direct educational instruction and include salaries and benefits of teachers and paraprofessionals, staff development costs and substitute pay.
 - B. For students with disabilities under the IDEA, educational costs include all costs incurred in the provision of FAPE.
 - C. For students suspected of having disabilities as defined by the IDEA, educational costs shall include costs incurred in the evaluation process.
- 18.07.5.2 The juvenile detention facility and the local school district in which the juvenile detention facility is located must jointly determine the education costs incurred by the facility.
- 18.07.5.3 The local school district in which the juvenile detention facility is located must reimburse the juvenile detention facility for educational costs incurred up to an amount not to exceed the Formula Foundation Aid, times the number of students the facility is authorized to accept.
- 18.07.5.4 If the juvenile detention facility and the local school district cannot agree on an amount for reimbursement, either entity may appeal to the ADE for a final decision.
- 18.07.5.5 The ADE must reimburse local school districts which have juvenile detention facilities on a quarterly basis based upon the district requesting such reimbursements.
- A. The quarterly reimbursement amount will be determined by dividing the amount

identified in §18.07.5.3 by four (4).

B. Should costs decrease, the local school district in which the facility is located must notify the ADE, Special Education Unit within thirty (30) days of revised costs.

C. Any adjustments to reimbursements based on cost decreases will be made in the fourth (4th) quarter.

18.07.5.6 The jurisdictional local school district may request reimbursement for the costs of educational services provided to students in juvenile detention facilities and incurred by the local school district.

18.07.5.7 The juvenile detention facility must provide the jurisdictional local school district a quarterly attendance record for each student in the facility, regardless of length of stay.

18.08 JUVENILE TREATMENT CENTERS (FORMERLY KNOWN AS SERIOUS OFFENDER PROGRAMS)

18.08.1 It shall be the responsibility of each juvenile treatment center to report the attendance of its students in the education program by providing quarterly attendance reports to the Department of Human Services, Division of Youth Services (DYS). DYS will provide the quarterly attendance information to the Arkansas Department of Education. Funding will be disbursed to DYS in support of education services within DYS juvenile treatment centers based upon a legislative appropriation for this purpose.

~~ARKANSAS DEPARTMENT OF EDUCATION
RULES GOVERNING ADMINISTRATIVE CONSOLIDATION OR
ANNEXATION OF PUBLIC SCHOOL DISTRICTS
AND BOARDS OF DIRECTORS OF LOCAL SCHOOL DISTRICTS~~

~~August 8, 2005~~

~~1.00 — PURPOSE~~

~~1.01 — These rules shall be known as the Arkansas Department of Education Rules Governing the Administrative Consolidation and Annexation of Public School Districts.~~

~~2.00 — AUTHORITY~~

~~The State Board of Education's authority for promulgation of these rules is pursuant to Ark. Code Ann. § 6-11-105, Ark. Code Ann. §§ 6-13-1601 et seq., 25-15-204 and Act 2151 of 2005.~~

~~3.00 — DEFINITIONS~~

~~3.01 — "Administrative annexation" means the joining of an affected school district or a part of the school district with a receiving district.~~

~~3.02 — "Administrative consolidation" means the joining of two (2) or more school districts to create a new single school district with one (1) administrative unit and one (1) board of directors that is not required to close school facilities.~~

~~3.03 — "Affected district" means a school district that loses territory or students as a result of administrative annexation or consolidation.~~

~~3.04 — "Average daily membership" (ADM) means the total number of days attended plus the total number of days absent by students in grades kindergarten through twelve (K-12) during the first three (3) quarters of each school year divided by the number of school days actually taught in the district during that period of time rounded up to the nearest one hundredth. Students who may be counted for average daily membership are: (i) students who reside within the boundaries of the school district and who are enrolled in a public school operated by the district or a private school for special education students, with their attendance resulting from a written tuition agreement approved by the Department of Education; (ii) legally transferred students living outside the district but attending a public school in the district; and (iii) students who reside within the boundaries of the school district and who are enrolled in the Arkansas National Guard Youth Challenge Program, so long as the students are participants in the program.~~

- 3.05 — ~~“Isolated school” means a school within a school district that prior to administrative consolidation or annexation qualified as an isolated school district under A.C.A. § 6-20-601 and is subject to administrative consolidation or annexation.~~
- 3.06 — ~~“Petition for voluntary administrative annexation” means the official forms and documents published by the Department and hereby attached and incorporated into these rules as Attachment A, which are the official forms and documents necessary for school districts to properly petition the State Board for administrative annexation of a school district or districts into a receiving school district.~~
- 3.07 — ~~“Petition for voluntary administrative consolidation” means the official forms and documents published by the Department and hereby attached and incorporated into these rules as Attachment B, which are the official forms and documents necessary for school districts to properly petition the State Board for administrative consolidation of a school district or districts into a resulting school district.~~
- 3.08 — ~~“Receiving district” means a school district or districts that receive territory or students, or both, from an affected district as a result of administrative annexation.~~
- 3.09 — ~~“Resulting district” means the new school district created from an affected district or districts as a result of administrative consolidation.~~
- 4.00 — ~~PROCEDURES OF THE STATE BOARD OF EDUCATION CONCERNING VOLUNTARY ADMINISTRATIVE CONSOLIDATION OR ANNEXATION UNDER ACT 60 (SECOND EXTRAORDINARY SESSION OF 2003)~~
- 4.01 — ~~By January 1 of each year, the ADE shall publish a consolidation list that includes all school districts with fewer than three hundred fifty (350) students according to the district's average daily membership in each of the two (2) school years immediately preceding the current school year.~~
- 4.02 — ~~Any school district submitting a Petition for Voluntary Administrative Consolidation or Annexation pursuant to Act 60 may submit a single petition for State Board consideration. A school district's Petition for Voluntary Administrative Consolidation or Annexation (Petition), including all required attachments, **MUST** be received in the Office of the Commissioner, Department of Education, #4 Capitol Mall, Little Rock, AR 72201, **NO LATER THAN** 4:30 p.m. on March 1, of the year of petition. Petitions **MUST** be submitted on the proper official Department of Education petition form and attached documents hereby incorporated into these rules as Attachments A and B respectively. A school district may attach additional information to the petition form, if necessary, to~~

~~fully present its information. If mailed, the petition and all required attachments must be sent by certified mail, return receipt requested. PETITIONS RECEIVED AFTER 4:30 P.M. ON MARCH 1, OF THE YEAR OF PETITION, SHALL NOT BE CONSIDERED BY THE STATE BOARD REGARDLESS OF DATE MAILED.~~

- ~~4.03 — While there is no provision in Act 60 that notice be published, the petitioning school districts are strongly encouraged to publish their intent to petition the State Board to consolidate or annex into a resulting or receiving school district by running said publication in a local newspaper of general circulation once a week for two (2) consecutive weeks. The petitioning parties may publish their intention to petition the State Board in a statewide newspaper of daily circulation, if the local newspaper does not publish on a daily or weekly basis.~~
- ~~4.04 — The State Board may consider the petition at either a regular or special board meeting. All petitions for administrative consolidation or annexation timely filed with the State Board shall be heard by the State Board at either a regularly scheduled or specially called meeting after March 1, of the year of petition, with appropriate notice to all parties.~~
- ~~4.05 — The State Board shall give at least five (5) calendar days advance written notice from the date of receipt to a petitioning school district of the date, time and place of the State Board meeting at which its petition will be considered. Notice may be provided via U.S. mail, facsimile or ADE electronic Commissioner's Memo.~~
- ~~4.06 — At the hearing before the State Board, the order of presentation shall be as follows:~~
- ~~A) — Remarks by petitioning school districts' spokesperson(s);~~
 - ~~B) — Remarks by opposing school districts and citizens' groups' spokesperson(s);~~
 - ~~C) — Closing remarks by opposing school districts and citizen's groups' spokesperson(s); and~~
 - ~~D) — Closing remarks by petitioning school districts' spokesperson(s).~~
- ~~4.07 — Each petitioning school district shall have twenty (20) minutes to present the district's remarks. The district may allocate its time to one (1) or more spokespersons, but the total time allocated should not exceed twenty (20) minutes. In its sole discretion, the State Board may allow a district's spokesperson(s) more than twenty (20) minutes to speak.~~
- ~~4.08 — Any school district or group of citizens, which opposes a petition, shall have the opportunity to present its opposition to the State Board. The State Board may, on its own motion, choose to hear from more than one~~

- ~~(1) spokesperson per opposing school district or group of citizens. However, the spokesperson(s) representing the opposing school district(s) or group of citizens shall have a total time allocated not to exceed twenty (20) minutes. In its sole discretion, the State Board may allow the spokesperson(s) more than twenty (20) minutes to speak.~~
- ~~4.09 Both the district and the opposition shall be given ten (10) minutes to present closing remarks to the State Board, allocated among one (1) or more spokesperson(s) as each side sees fit.~~
- ~~4.010 Time taken by a spokesperson to respond to a question by a State Board member shall not count against the respective side's time allotment.~~
- ~~4.11 Any documents to be considered by the State Board shall be submitted via first class mail to the Commissioner's Office at least three (3) business days prior to the State Board hearing of the petition for administrative consolidation or annexation.~~
- ~~4.12 The State Board shall issue a written decision approving the administrative consolidations or annexations requested in the petitions, if the petitions are granted. If the State Board denies a petition, it shall issue a written decision stating the reasons for such denial.~~
- ~~4.13 The State Board's written decision shall be made on or before May 1, of the year of petition.~~
- ~~4.14 Under no circumstances shall the State Board be obligated to grant a petition where to do so would hamper, delay, or in any manner negatively affect the desegregation efforts of any school district or districts in the state including school districts which are not petitioners for the administrative consolidation or annexation before the State Board.~~
- ~~4.15 If the State Board denies a school district's petition or does not receive a petition from a school district on the consolidation list, then the State Board shall, on its own motion, administratively consolidate all of the school district with or into one (1) or more other school districts by May 1, of the year of petition.~~
- ~~4.16 For administrative consolidations considered under the provisions of Section 4.15, the notice requirements placed upon the State Board by Section 4.05 shall not apply. Instead, the State Board shall provide such advance notice to the districts of the State Board's meeting at which the administrative consolidation will be considered as is practicable and required by law.~~

~~5.00 STATE BOARD OF EDUCATION ACTION ON PETITIONS FOR ADMINISTRATIVE CONSOLIDATION OR ANNEXATION~~

~~5.01 Except as otherwise provided for in these rules or law and in addition to any other requirements herein, the State Board shall not deny a petition for voluntary administrative consolidation or annexation of any two (2) or more school districts unless:~~

- ~~(A) The provisions contained in the articles of administrative consolidation or annexation would violate state or federal law; or~~
- ~~(B) The voluntary administrative consolidation or annexation would not contribute to the betterment of the education of students in the districts; or~~
- ~~(C) The proposed consolidation or annexation does not result in a resulting or receiving school district with an average daily membership meeting or exceeding three hundred fifty (350) based upon the prior year third (3rd) quarter average daily membership.~~

~~In making a determination under (B) of Section 5.01, certain considerations will be taken into account by the State Board. The State Board will consider the extent to which the respective districts are or have been in compliance with certain provisions of Arkansas law or State Board rules, including academic and fiscal distress, Standards for Accreditation, and Arkansas teacher salary schedules.~~

~~For those resulting or receiving districts in compliance with Section 5.01 (C), the projected ADM of the proposed resulting or receiving district shall not be a factor in making the determination to approve or deny the petition for administrative consolidation or annexation.~~

~~If the State Board, after consideration of the petition and the evidence produced at the hearing, shall determine that significant reason(s) exist why the proposed administrative consolidation or annexation would not contribute to the betterment of the education of the students in the districts, it may deny the petition and shall state its specific findings in the order entered in the proceedings.~~

~~5.02 Prior to the entry of any order approving a petition for administrative consolidation or annexation, the State Board shall seek an advisory opinion from the Attorney General concerning the impact of the proposed annexation or consolidation on the effort of the state to assist a district or districts in desegregation of the public schools of this state.~~

~~5.03 In addition to all other requirements in these rules, the State Board shall not approve any petition nor order any annexation or consolidation of school districts when the effect of such annexation or consolidation~~

~~hampers, delays, or in any manner negatively affects the desegregation efforts of a school district or districts in this state.~~

~~5.04—In addition to the standards set forth in Section 5.01 of these rules, noncontiguous school districts may voluntarily consolidate if:~~

- ~~(A)(1) The facilities and physical plant of each school district are within the same county, and~~
- ~~(2) The State Board approves the administrative consolidation, or~~
- ~~(B)(1) The facilities and physical plant of each school district are not within the same county, and~~
- ~~(2) The State Board approves the administrative consolidation or annexation and finds that:~~
 - ~~(i) — (i) — The consolidation or annexation will result in the overall improvement in the educational benefit to students in all of the school districts involved, or~~
 - ~~(ii) — (ii) — The consolidation or annexation will provide a significant advantage in transportation costs or service to all of the school districts involved.~~

~~5.05—If the resulting district in an administrative consolidation fails to establish an interim school board by May 31 of the year of petition, the State Board shall appoint an interim board to serve until the next elected school board assumes office, in the following manner:~~

- ~~(A) — The interim board shall be made up of seven (7) board members;~~
- ~~(B) — The interim board shall be made up of board members from the boards of directors of the affected school districts;~~
- ~~(C) — The proportion of board members from each of the affected school districts shall be equal to the proportion of the student population in the resulting school district that came from each affected school district, with no less than one (1) board member being selected from the board of each affected school district;~~
- ~~(D) — Unless provided otherwise by the State Board, the board membership of each interim resulting school district under Section 5.05 shall be selected first of the board presidents; second, board secretaries; and third, any other remaining current local board members selected by the State Board;~~
- ~~(E) — The interim board shall have no authority to govern the resulting consolidated school district until the July 1 effective date of the consolidation; and~~
- ~~(F) — The interim board shall serve until the new school board directors have been sworn in and commissioned after the September school board election immediately following the effective date of the consolidation unless the resulting district opts to follow the procedures set forth in Section 2 of Act 274 of 2005.~~

- ~~5.06—If the resulting district in an administrative consolidation voluntarily agrees to establish an interim school board by May 31, of the year of petition, the board shall be selected as follows:~~
- ~~(A)—The board of directors of the affected districts may by agreement establish an interim board of directors of the resulting district composed of not fewer than five (5) nor more than seven (7) directors;~~
 - ~~(B)—The proportion of board members from each of the affected school districts shall be equal to the proportion of the student population in the resulting school district that came from each affected school district, with no less than one (1) board member being selected from the board of each affected school district;~~
 - ~~(C)—The board of each affected school district shall select the board members that it wishes to have placed on the interim board of the resulting district. If the affected district is unable to select membership by a majority vote of the local board, the affected district(s) may select members to the interim resulting board by drawing lots.~~
 - ~~(D)—The interim board shall have no authority to govern the resulting consolidated school district until the July 1 effective date of the consolidation; and~~
 - ~~(E)—The interim board shall serve until the new school board directors have been sworn in and commissioned after the September school board election immediately following the effective date of the consolidation unless the resulting district opts to follow the procedures set forth in Section 2 of Act 274 of 2005.~~
- ~~5.07—If a school district fails to petition the State Board for administrative consolidation or annexation as required by A.C.A. § 6-13-1603(a)(2)(A) or the State Board denies a petition for administrative consolidation or annexation, the State Board shall, on its own motion, administratively consolidate a school district with or into any one (1) or more school districts in Arkansas by May 1, and the administrative consolidation shall be effective the July 1 immediately following the publication of the list required under A.C.A. § 6-13-1602.~~
- ~~5.08—The State Board shall promptly consider petitions or move on its own motion to administratively consolidate a school district on the consolidation list in order to enable the affected school districts to reasonably accomplish any resulting administrative consolidation or annexation by July 1 immediately following the publication of the list required under A.C.A. § 6-13-1602.~~

~~5.09 — Upon approving a petition for administrative consolidation or annexation or acting on its own motion to administratively consolidate school districts, the State Board shall prepare a written order of administrative consolidation or annexation and file such order with the county clerk's office of each county clerk in the counties where the resulting or receiving school district is located.~~

~~5.10 — The State Board shall not order the closing of any isolated school facility as a result of an administrative consolidation or annexation of an isolated school except as allowed by law.~~

~~5.11 — The board of directors of any receiving school district created after an administrative annexation (whether interim or permanent) shall be in compliance with A.C.A. § 6-13-1406 and Act 274 of the Arkansas 85th General Assembly.~~

~~6.00 — GENERAL PROVISIONS GOVERNING ADMINISTRATIVE CONSOLIDATIONS OR ANNEXATIONS~~

~~6.01 — All administrative consolidations or annexations shall be accomplished so as not to create a school district that hampers, delays, or in any manner negatively affects the desegregation of another school district in this state.~~

~~6.02 — The millage rate of the electors of the affected districts of an administrative consolidation or annexation shall remain the same until an election may be held to change the rate of taxation for the resulting or receiving district.~~

~~6.03 — No administrative consolidation or annexation shall be construed to require the closing of any school or school facility except as allowed by law.~~

~~6.04 — All resulting or receiving school districts created from an administrative consolidation or annexation shall have no more than one (1) superintendent and no more than one (1) local school board.~~

~~6.05 — Any school district not designated as being in academic or fiscal distress for the current school year and previous two (2) school years that administratively receives by consolidation or annexation a school district classified by the State Board as being in academic or fiscal distress at the time of the consolidation or annexation shall not be subject to academic or fiscal distress sanctions for a period of three (3) years from the July 1 effective date of consolidation unless:~~

~~(A) — The school district fails to meet minimum teacher salary requirements set forth in law and rules; or~~

~~(B) — The school district fails to comply with the Standards for Accreditation of Arkansas Public Schools issued by the Department of Education.~~

~~6.06 — The provisions of A.C.A. § 6-13-1406, Act 25 of the Second Extraordinary Session 2003 and Act 2151 of 2005 shall govern the board of directors of each resulting or receiving school district created from an administrative consolidation or annexation.~~

~~7.00 — ISOLATED SCHOOLS~~

~~7.01 — Prior to July 1, 2004, and each July 1 thereafter, the Department shall determine which schools meet the definition of “isolated schools” based upon the verified information submitted in the district’s petition for administrative consolidation or annexation or based upon relevant data submitted to the Department pursuant to A.C.A. § 6-20-601 and 602.~~

~~7.02 — Any isolated school within a resulting or receiving school district shall remain open except as allowed by law.~~

~~7.03 — Funding for isolated schools shall be expended by the resulting or receiving district only on the operation, maintenance, and other expenses of the isolated schools within the resulting or receiving school district.~~

~~8.0 — BOARDS OF DIRECTORS OF LOCAL SCHOOL DISTRICTS~~

~~8.01 — All boards of directors of local school districts shall be made up of five (5), seven (7) or nine (9) members as allowed by law, unless the school district is under a valid court order otherwise directing the number and composition of the local board.~~

~~8.02 — No board of directors shall have an even number of directors whether or not the number of directors of a school district's board of directors was established by an agreement between or among the former school districts, which comprise the school district incident to a consolidation or annexation of the former school districts.~~

~~8.03 — No less than ninety (90) days prior to the 2005 annual school election, any school district with an even number of directors shall file a petition with the State Board of Education to establish the requisite odd number of directors.~~

~~8.04 — If the number of board members needs to be reduced to create a required odd number of directors and the members cannot agree on the method of reduction, the board of directors in office as of August 12, 2005, shall draw lots to determine which board positions will be eliminated.~~

- ~~8.05 — Any change in the number of directors serving on the local school district board of directors required by Arkansas law and these Rules shall be effective upon the directors' taking office following the 2005 annual school election.~~
- ~~8.06 — Except as otherwise provided by law, any school district which elects its school board members from single member zones shall be subject to the requirements of these Rules.~~

~~BEFORE THE ARKANSAS STATE BOARD OF EDUCATION~~

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~~IN THE MATTER OF THE ANNEXATION OF _____ SCHOOL DISTRICT(S) OF _____ COUNTY INTO THE _____ SCHOOL DISTRICT OF _____ COUNTY:~~

PETITION FOR ANNEXATION

COMES NOW the _____ School District(s) of _____ County and the _____ School District of _____ County (Petitioners), acting by and through their respective Superintendent(s) duly authorized, pursuant to A.C.A. § 6-13-1601 et seq., and petition the Arkansas State Board of Education (Board) to approve the annexation of the petitioning affected school district(s) into the petitioning receiving _____ School District, and hereby would submit to the Board as follows:

1. _____ Pursuant to A.C.A. § 6-13-1601 et seq., the Petitioners hereby submit and incorporate in this petition as Exhibit A attached hereto, proof of legally binding local board resolutions to annex the _____ School District(s) into the receiving _____ School District as approved by a majority of the quorum present of the local boards of education of the respective Petitioners.

2. _____ The Petitioners hereby submit and incorporate in this petition as Exhibit B attached hereto, proof of public notice of intent to petition this Board to annex the Petitioners into the receiving _____ School District. Said public notice of intent to annex (was)(was not) published in the local newspaper(s) of general circulation (or in a state newspaper of daily circulation if local newspaper does not exist on weekly

basis) of the affected districts for a time period of no less than once a week for two (2) consecutive weeks immediately prior to the filing of this petition with this Board.

3. — The Petitioners submit that at the proper school election following the petitioned annexation, the receiving _____ School District shall elect _____ local board members in compliance with A.C.A. §§ 6-13-1405, 6-13-1406, and 6-13-1412 or 6-13-1413.

4. — The Petitioners submit that their respective school districts are geographically contiguous or that the Board should approve the petitioned non-contiguous annexation because the annexation will result in (a) the overall improvement in the educational benefit to students in all of the school districts involved, or (b) will provide a significant advantage in transportation costs or services to all of the school districts involved based on the following factual reasons:

5. — The Petitioners submit that they hereby request through the State Board, an Attorney General Opinion declaring whether the petitioned annexation will or will not hamper, delay or in any manner negatively affect the desegregation of another school district or districts in this state. Upon receipt, the resulting opinion shall be incorporated herein and attached hereto as Exhibit C.

6. — Pursuant to A.C.A. § 6-13-1601 et seq., the Petitioners hereby submit and declare that the effective date of this petitioned annexation shall be July 1, and that there

shall be only one local school board and one local superintendent of the receiving
_____ School District.

7. The Petitioners hereby submit an affidavit of facts by the superintendent of the affected school district(s), which is incorporated as Exhibit D, concerning the relevant status of any federal court-ordered supervision or jurisdiction of desegregation cases involving the affected districts.

WHEREFORE, Petitioners request that the Board approve the annexation of the _____ School District(s) of _____ County into the receiving _____ School District of _____ County; that it issue an Order dissolving the affected school district(s) and establishing the receiving _____ School District; that it issue an Order establishing the boundary lines of the receiving school district; and that it file its Order with the County Clerks of _____ and _____ Counties, Arkansas.

Respectfully submitted,

_____ School District

_____ County

By: _____
Superintendent _____ Date

President, School Board _____ Date

_____ School District

_____ County

By: _____
Superintendent _____ Date

President, School Board _____ Date

BEFORE THE ARKANSAS STATE BOARD OF EDUCATION

IN THE MATTER OF THE CONSOLIDATION OF _____ SCHOOL DISTRICT(S) OF _____ COUNTY AND THE _____ SCHOOL DISTRICT OF _____ COUNTY:

PETITION FOR CONSOLIDATION

COMES NOW the _____ School District(s) of _____ County and the _____ School District of _____ County (Petitioners), acting by and through their respective Superintendent(s) duly authorized, pursuant to A.C.A. § 6-13-1601 et seq., and petition the Arkansas State Board of Education (Board) to approve the consolidation of the Petitioners into the resulting _____ School District, and hereby would submit to the Board as follows:

1. _____ Pursuant to A.C.A. § 6-13-1601 et seq., the Petitioners hereby submit and incorporate in this petition as Exhibit A attached hereto, proof of legally binding local board resolutions to consolidate the _____ and _____ School District(s) into the resulting _____ School District as approved by a majority of the quorum present of the local boards of education of the respective Petitioners.

2. _____ The Petitioners hereby submit and incorporate in this petition as Exhibit B attached hereto, proof of public notice of intent to petition this Board to consolidate the Petitioners into the resulting _____ School District. Said public notice of intent to consolidate (was)(was not) published in the local newspaper(s) of general circulation (or in state newspaper of local daily circulation if local newspaper does not exist on weekly basis) of the affected districts for a time period of no less than once a week for two (2) consecutive weeks immediately prior to the filing of this petition with this Board.

3. — The Petitioners submit that at the first proper school election following the petitioned consolidation, the resulting _____ School District shall elect _____ local board members in compliance with A.C.A. §§ 6-13-1405, 6-13-1406 and 6-13-1412 or 6-13-1413.

4. — The Petitioners submit that their respective school districts are geographically contiguous or that the Board should approve the petitioned non-contiguous consolidation because the consolidation will result in (a) the overall improvement in the educational benefits to students in all of the school districts involved, or (b) will provide a significant advantage in transportation costs or services to all of the school districts involved based on the following factual reasons:

5. — The Petitioners submit that they hereby request through the State Board, an Attorney General Opinion declaring whether the petitioned consolidation will or will not hamper, delay or in any manner negatively affect the desegregation of another school district or districts in this state. Upon receipt, the resulting opinion shall be incorporated herein and attached hereto as Exhibit C.

6. — Pursuant to A.C.A. § 6-13-1601 et seq., the Petitioners hereby submit and declare that the effective date of this petitioned consolidation shall be July 1, and that there shall be only one local school board and one local superintendent of the resulting _____ School District.

7. ~~The Petitioners hereby submit an affidavit of facts by the superintendent of the affected school district, which is incorporated as Exhibit D, concerning the relevant status of any federal court-ordered supervision or jurisdiction of desegregation cases involving the affected districts.~~

WHEREFORE, ~~Petitioners request that the Board approve the consolidation of the _____ School District(s) of _____ County and the _____ School District of _____ County into the resulting _____ School District; that it issue an Order dissolving the affected school districts and establishing the resulting school district; that it issue an Order establishing the boundary lines of the resulting school district; and that it file its Order with the County Clerks of the _____ and _____ Counties, Arkansas.~~

~~Respectfully submitted,~~

~~_____ School District~~

~~_____ County~~

~~By: _____
Superintendent _____ Date~~

~~_____
President, School Board _____ Date~~

~~_____ School District~~

~~_____ County~~

~~By: _____
Superintendent _____ Date~~

~~_____
President, School Board _____ Date~~

Exhibit A

SCHOOL BOARD RESOLUTION

COMES NOW the _____ School District Board acting by and through its Superintendent duly authorized and do herein declare:

A special or regular school board meeting was held on _____, wherein a quorum was present and a majority of the quorum voted to approve the consolidation/annexation of the _____ School District with the _____ School District, and the minutes of said meeting reflect such. Therefore, this document is to serve as the formal resolution of the _____ School District Board of Directors, pursuant to Arkansas law, that said consolidation/annexation is hereby approved.

_____ School District

of _____ County

By: _____
Superintendent _____ Date

By: _____
President, School Board _____ Date

Exhibit C

AFFIDAVIT OF AVERAGE DAILY MEMBERSHIP

COMES NOW the affiant, _____, Superintendent of the _____ School District, and having been duly sworn, states under oath as follows:

1. _____ The average daily membership (ADM) of the _____ School District, as that term is defined in Ark. Code Ann. § 6-13-1601(4), was _____ students for the _____ school year and _____ students for the _____ school year.

2. _____ The combined average daily membership of the affected school districts was _____ for the _____ school year, an average daily membership meeting or exceeding three hundred fifty (350) total students.

FURTHER, affiant says not.

IN WITNESS WHEREOF, I hereunto set my hand this _____ day of _____, _____.

Superintendent

County of _____
State of Arkansas

Sworn and subscribed before me, Notary Public, this _____ day of _____, _____.

Notary Public

My Commission expires:

Exhibit E

AFFIDAVIT OF ISOLATED SCHOOL STATUS

Comes the affiant, _____, Superintendent of the _____

School District, and having been duly sworn, states under oath as follows:

1. My name is _____. I am the Superintendent of the _____ School District.
2. My business address is _____.
3. I am aware that pursuant to A.C.A. § 6-20-601 a school district must meet four of five criteria to qualify as an isolated school.
4. I am aware that pursuant to A.C.A. § 6-20-602 an isolated school must qualify as an isolated school district under § 6-20-601 prior to the administrative consolidation or annexation petitioned for herein.
5. I hereby submit that prior to the effective date of the administrative consolidation or annexation, the _____ School District qualified as an isolated school district and, therefore, is entitled to the rights and privileges conferred on an isolated school pursuant to § 6-20-602 (Act 60 of the Second Extraordinary Session of 2003).
6. I hereby declare that the _____ School District qualifies for isolated status because the school district meets the following list of at least four (4) of the five (5) criteria of being an isolated school district:
(circle appropriate responses and provide relevant data in the blanks)

~~(1) — There is a distance of twelve (12) miles or more by hard surfaced highway from the high school of the district to the nearest adjacent high school in an adjoining district. The distance is _____.~~

~~(2) — The density ratio of transported students is less than three (3) students per square mile of area. The density ratio is _____.~~

~~(3) — The total area of the district is ninety five (95) square miles or greater. The total area is _____ square miles.~~

~~(4) — Less than fifty percent (50%) of bus route miles are on hard surfaced roads. The percent of bus route miles on hard surface roads is _____.~~

~~(5) — There are geographic barriers such as lakes, rivers, and mountain ranges which would impede travel to schools that otherwise would be appropriate for consolidation, cooperative programs, and shared services. The geographic barriers are _____.~~

7. — Further the affiant sayeth not.

IN WITNESS WHEREOF, I hereunto set my hand this _____ day of

_____, _____.

Superintendent

COUNTY OF _____
STATE OF ARKANSAS

Sworn and subscribed before me, Notary Public, this _____ day
of _____, _____.

Notary Public

My Commission expires:

~~ARKANSAS DEPARTMENT OF EDUCATION
RULE GOVERNING CONSOLIDATION OR ANNEXATION OF PUBLIC SCHOOL
DISTRICTS AND BOARDS OF DIRECTORS OF LOCAL SCHOOL DISTRICTS
March 13, 2006~~

~~1.0 — PURPOSE~~

~~1.01 — This rule shall be known as the Arkansas Department of Education Rule Governing the Consolidation and Annexation of Public School Districts.~~

~~2.0 — AUTHORITY~~

~~The State Board of Education's authority for promulgation of this rule is pursuant to Ark. Code Ann. §§ 6-11-105 and 6-13-1401 et seq.~~

~~3.0 — DEFINITIONS~~

~~3.01 — "Annexation" means the joining of an affected school district or a part of the school district with a receiving district.~~

~~3.02 — "Affected district" means a school district that loses territory or students as a result of annexation or consolidation.~~

~~3.03 — "Consolidation" means the joining of two (2) or more school districts or parts thereof to create a new single school district.~~

~~3.04 — "Petition for annexation" means the official forms and documents published by the Department and hereby attached and incorporated into this rule as Attachment A, which are the official forms and documents necessary for school districts to properly petition the State Board of Education for annexation of a school district or districts into a receiving school district.~~

~~3.05 — "Petition for consolidation" means the official forms and documents published by the Department and hereby attached and incorporated into this rule as Attachment B, which are the official forms and documents necessary for school districts to properly petition the State Board of Education for consolidation of a school district or districts into a resulting school district.~~

~~3.06 — "Receiving district" means a school district or districts that receive territory or students, or both, from an affected district as a result of annexation.~~

~~3.07 — "Resulting district" means the new school district created from an affected district or districts as a result of consolidation.~~

~~3.08 —“State Board” means the State Board of Education.~~

~~4.0 —PROCEDURES OF THE STATE BOARD OF EDUCATION CONCERNING
THE ANNEXATION OF SCHOOL DISTRICTS~~

~~4.01 —There shall not be any annexation of any public school district with any other public school district in the state without the prior consent and approval of the State Board.~~

~~4.02 —The State Board shall consider the annexation of an affected school district or districts to a receiving district or districts under the following conditions:~~

~~4.02.1 —The State Board, after providing thirty (30) days written notice to the affected school districts, determines that annexation is in the best interest of the affected district or districts and the receiving district based upon failure to meet standards of accreditation or failure to meet academic or fiscal distress requirements pursuant to The Quality Education Act of 2003, Ark. Code Ann. § 6-15-201 et seq., the Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, Ark. Code Ann. § 6-15-401 et seq., and the Arkansas Fiscal Assessment and Accountability Program, Ark. Code Ann. § 6-20-1901 et seq.;~~

- ~~(i) —The affected district or districts file a petition with the State Board requesting annexation to a particular receiving district or districts, and a copy of the petition is filed with the county clerk’s office of each county where the affected district or districts are located;~~
- ~~(ii) —The county clerk’s office of each county where the affected district or districts are located certifies in writing that the petition has been signed by a majority of the qualified electors of the district or districts; and~~
- ~~(iii) —The receiving district or districts provide to the State Board written proof of consent to receive the affected district or districts by annexation as evidenced by either a vote to approve annexation by resolution by a majority of the members of the local receiving board of education or by a vote to approve annexation by a majority of the qualified electors of the receiving district as provided for in Ark. Code Ann. § 6-14-122;~~
- ~~(iv) —A majority of the qualified electors in the affected district or districts vote to approve the annexation of an affected school district or districts to a receiving district or districts as provided for in Ark. Code Ann. § 6-14-122; and~~

- ~~(v) — The receiving district or districts provide to the State Board written proof of consent to receive the affected district or districts by annexation as evidenced by either a vote to approve annexation by resolution by a majority of the members of the local receiving board of education or by a vote to approve annexation by a majority of the qualified electors of the receiving district as provided in Ark. Code Ann. § 6-14-122; or~~
- ~~(vi) — The local board of education of the affected district or districts votes to approve by resolution the annexation of the affected district or districts to a receiving district or districts by a majority of the members of the local board of education of the affected district or districts; and~~
- ~~(vii) — The receiving district or districts provide to the State Board written proof of consent to receive the affected district or districts by annexation as evidenced by either a vote to approve annexation by resolution by a majority of the members of the local receiving board of education or by a vote to approve annexation by a majority of the qualified electors of the receiving districts as provided for in Ark. Code Ann. § 6-14-122.~~

~~4.03 — The State Board may vote to approve, by a majority of a quorum present of the members of the State Board, the annexation of the affected districts into a receiving district, under the following conditions:~~

- ~~4.03.1 — The State Board, after providing thirty (30) days written notice to the affected school districts, may on its own motion based on a school district's failure to meet standards of accreditation or failure to meet academic or fiscal distress requirements pursuant to The Quality Education Act of 2003, Ark. Code Ann. § 6-15-201 et seq., the Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, Ark. Code Ann. § 6-15-402 et seq., and the Arkansas Fiscal Assessment and Accountability Program, Ark. Code Ann. § 6-20-1901 et seq.; or~~
- ~~4.03.2 — Upon receipt of a valid petition for annexation and after receiving proof from the petitioning party of at least one (1) of the required conditions set forth in Section 4.02 of this rule and upon receipt of proof of the issuance of public notice of the intent to annex affected districts into a receiving district or districts in the local newspapers of general circulation in the affected districts for a time period of no less than once a week for two (2) consecutive weeks immediately prior to the time the petition is filed with the State Board.~~

- 4.04 — ~~The petition for annexation filed by a school district must be filed on the attached “Petition for Annexation” form, along with all required attachments, in order for the petition to be considered by the State Board. The petition, with all required attachments, must be submitted to the Office of the Commissioner, Department of Education, #4 Capitol Mall, Little Rock, AR 72201. A school district may attach additional information to the petition form, if necessary, to fully present its information. If mailed, the petition and all required attachments must be sent by certified mail, return receipt requested.~~
- 4.05 — ~~In order for the petition for annexation to be valid, it shall be filed in the Office of the Commissioner at least thirty (30) days prior to the next regularly scheduled State Board meeting, at which time the petition will be presented for hearing before the State Board.~~
- 4.06 — ~~No petition is required to be filed for the State Board to annex a school district or districts upon a motion of the State Board as set forth in Section 4.03.1 of this rule.~~
- 4.07 — ~~The State Board shall give at least five (5) calendar days advance written notice from the date of receipt to a petitioning school district of the date, time and place of the State Board meeting at which its petition will be considered. Notice may be provided via U.S. mail, facsimile or ADE electronic Commissioner’s Memo.~~
- 4.08 — ~~At the hearing before the State Board, the order of presentation shall be as follows:~~
- ~~A) — Remarks by petitioning school districts’ spokesperson(s);~~
 - ~~B) — Remarks by opposing school districts and citizen’s groups’ spokesperson(s);~~
 - ~~C) — Closing remarks by opposing school districts and citizen’s groups’ spokesperson(s);~~
 - ~~D) — Closing remarks by petitioning school districts’ spokesperson~~
- 4.09 — ~~Each petitioning school district shall have twenty (20) minutes to present the district’s remarks. The district may allocate its time to one (1) or more spokespersons, but the total time allocated should not exceed twenty (20) minutes. In its sole discretion, the State Board may allow a district’s spokesperson(s) more than twenty (20) minutes to speak.~~
- 4.10 — ~~Any school district or group of citizens, which opposes a petition, shall have the opportunity to present its opposition to the State Board. The State Board may, on its own motion, choose to hear from more than one (1) spokesperson per opposing school district or group of citizens. However, the spokesperson(s) representing the opposing school districts(s)~~

~~or group of citizens shall have a total time allocated not to exceed twenty (20) minutes. In its sole discretion, the State Board may allow the spokesperson(s) more than twenty (20) minutes to speak.~~

- ~~4.11 Both the district and the opposition shall be given ten (10) minutes to present closing remarks to the State Board, allocated among one (1) or more spokesperson(s) as each side sees fit.~~
- ~~4.12 Time taken by a spokesperson to respond to a question by a State Board member shall not count against the respective side's time allotment.~~
- ~~4.13 Any documents to be considered by the State Board shall be submitted via first class mail to the Commissioner's Office at least three (3) business days prior to the State Board hearing of the petition for annexation.~~
- ~~4.14 The State Board shall issue a written decision approving the annexation requested in the petition, if the petition is granted. If the State Board denies a petition, it shall issue a written decision stating the reasons for such denial.~~
- ~~4.15 Under no circumstances shall the State Board be obligated to grant a petition where to do so would hamper, delay, or in any manner negatively affect the desegregation efforts of any school district or districts in the state, including school districts which are not petitioners for the annexation before the State Board.~~

~~5.0 PROCEDURES OF THE STATE BOARD OF EDUCATION CONCERNING THE CONSOLIDATION OF SCHOOL DISTRICTS~~

- ~~5.01 There shall not be any consolidation of any public school district with any other public school district in the state without the prior consent and approval of the State Board.~~
- ~~5.02 The State Board shall consider the consolidation of an affected school district or districts to a resulting district or districts under the following conditions:
 - ~~5.02.1 The State Board, after providing thirty (30) days written notice to the affected school districts, determines that consolidation is in the best interest of the affected district or districts and the resulting district based upon failure to meet standards of accreditation or failure to meet academic or fiscal distress requirements pursuant to The Quality Education Act of 2003, Ark. Code Ann. § 6-15-201 et seq., the Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, Ark. Code Ann. § 6-15-401 et seq.,~~~~

and the Arkansas Fiscal Assessment and Accountability Program, Ark. Code Ann. § 6-20-1901 et seq.; or

- (i) — The affected districts file a petition with the State Board requesting that the affected districts be consolidated into a resulting district or districts, and a copy of the petition is filed with the county clerk’s office of each county where the affected districts are located;
- (ii) — The county clerk’s office of each county where the affected district or districts are located certifies in writing that the petition has been signed by a majority of the qualified electors of the affected districts; and
- (iii) — A majority of the qualified electors in the affected districts vote to approve the consolidation of the affected districts into a resulting district or districts pursuant to a valid election as provided in Ark. Code Ann. § 6-14-122; and
- (iv) — The local board of directors votes to approve by resolution of a majority of the members of each local board of education the consolidation of the affected districts into a resulting district or districts.

5.03 — The State Board may vote to approve, by a majority of a quorum present of the members of the State Board, the consolidation of the affected districts into a resulting district under the following conditions:

5.03.1 — The State Board, after providing thirty (30) days written notice to the affected schools, may on its own motion based on a school district’s failure to meet standards of accreditation or failure to meet academic or fiscal distress requirements pursuant to The Quality Education Act of 2003, Ark. Code Ann. § 6-15-201 et seq.; the Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, Ark. Code Ann. § 6-15-401 et seq.; and the Arkansas Fiscal Assessment and Accountability Program, Ark. Code Ann. § 6-20-1901 et seq.; or

5.03.2 — Upon receipt of a valid petition for consolidation and after receiving proof from the petitioning party of at least one (1) of the required conditions set forth in Section 5.02 of this rule and upon receipt of proof of the issuance of public notice of the intent to consolidate affected districts into a resulting district in the local newspapers of general circulation in the affected districts for a time period of no less than once a week for two (2) consecutive weeks immediately prior to the time the petition is filed with the State Board.

5.04 — The petition for consolidation filed by a school district must be filed on the attached “Petition for Consolidation” form along with all required attachments, in order for the petition to be considered by the State Board. The petition, with all required attachments, must be submitted to the

~~Office of the Commissioner, Arkansas Department of Education, #4 Capitol Mall, Little Rock, AR 72201. A school district may attach additional information to the petition form, if necessary, to fully present its information. If mailed, the petition and all required attachments must be sent by certified mail, return receipt requested.~~

- ~~5.05—In order for the petition for consolidation to be valid, it shall be filed in the Office of the Commissioner at least thirty (30) days prior to the next regularly scheduled State Board meeting, at which time the petition will be presented for hearing before the State Board.~~
- ~~5.06—No petition is required to be filed for the State Board to consolidate a school district or districts upon a motion of the State Board and as set forth in Section 5.03.1 of this Rule.~~
- ~~5.07—The State Board shall give at least five (5) calendar days advance written notice from the date of receipt to a petitioning school district of the date, time and place of the State Board meeting at which its petition will be considered. Notice may be provided via U.S. mail, facsimile or ADE electronic Commissioner's Memo.~~
- ~~5.08—At the hearing before the State Board, the order of presentation shall be as follows:~~
- ~~A) —Remarks by petitioning school districts' spokesperson(s);~~
 - ~~B) —Remarks by opposing school districts and citizen's groups' spokesperson(s);~~
 - ~~C) —Closing remarks by opposing school districts and citizen's groups' spokesperson(s);~~
 - ~~D) —Closing remarks by petitioning school districts' spokesperson~~
- ~~5.09—Each petitioning school district shall have twenty (20) minutes to present the district's remarks. The district may allocate its time to one (1) or more spokespersons, but the total time allocated should not exceed twenty (20) minutes. In its sole discretion, the State Board may allow a district's spokesperson(s) more than twenty (20) minutes to speak.~~
- ~~5.10—Any school district or group of citizens, which opposes a petition, shall have the opportunity to present its opposition to the State Board. The State Board may, on its own motion, choose to hear from more than one (1) spokesperson per opposing school district or group of citizens. However, the spokesperson(s) representing the opposing school districts(s) or group of citizens shall have a total time allocated not to exceed twenty (20) minutes. In its sole discretion, the State Board may allow the spokesperson(s) more than twenty (20) minutes to speak.~~

- ~~5.11—Both the district and the opposition shall be given ten (10) minutes to present closing remarks to the State Board, allocated among one (1) or more spokesperson(s) as each side sees fit.~~
- ~~5.12—Time taken by a spokesperson to respond to a question by a State Board member shall not count against the respective side's time allotment.~~
- ~~5.13—Any documents to be considered by the State Board shall be submitted via first class mail to the Commissioner's Office at least three (3) business days prior to the State Board hearing of the petition for consolidation.~~
- ~~5.14—The State Board shall issue a written decision approving the consolidation requested in the petition, if the petition is granted. If the State Board denies a petition, it shall issue a written decision stating the reasons for such denial.~~
- ~~5.15—Under no circumstances shall the State Board be obligated to grant a petition where to do so would hamper, delay, or in any manner negatively affect the desegregation efforts of any school district or districts in the state, including school districts which are not petitioners for the consolidation before the State Board.~~

~~6.0—STATE BOARD OF EDUCATION ACTION ON PETITIONS FOR ANNEXATIONS AND CONSOLIDATIONS~~

- ~~6.01—Prior to the entry of any order approving a petition for consolidation or annexation, the State Board shall seek an advisory opinion from the Attorney General concerning the impact of the proposed annexation or consolidation on the effort of the state to assist a district or districts in desegregation of the public schools of this state.~~
- ~~6.02—In addition to all other requirements in this rule, the State Board shall not approve any petition nor order any annexation or consolidation of school districts when the effect of such annexation or consolidation hampers, delays, or in any manner negatively affects the desegregation efforts of a school district or districts in this state.~~
- ~~6.03—Upon the annexation or consolidation of school districts by the State Board's own motion, or by the approval of a petition requesting annexation or consolidation, the State Board shall issue an order containing, but not limited to, the following:
 - ~~6.03.1—Dissolving the affected school districts and establishing the receiving or resulting district or districts;~~
 - ~~6.03.2—Establishing the boundary lines of the receiving or resulting district or districts;~~~~

~~6.03.3 Directing the Department of Education to make changes in the maps of the school districts to properly show the boundary lines of the receiving or resulting district or districts.~~

~~6.04 The State Board shall also issue an order establishing the changed boundaries and shall file the order with the county clerk or clerks where the receiving or resulting district or districts are located.~~

~~6.05 The county clerk shall make a permanent record of the order described in Section 6.04 of this Rule, above, and, thereafter, the boundaries so established shall be the boundaries of the receiving or resulting district until changes are made according to the provisions of law.~~

~~6.06 The State Board shall neither annex nor consolidate affected districts that are not geographically contiguous unless the following limited conditions are determined to be valid reasons for annexation or consolidation:~~

- ~~(1) The annexation or consolidation will result in the overall improvement in the educational benefit to students in all the school districts involved; or~~
- ~~(2) The annexation or consolidation will provide a significant advantage in transportation costs or service to all the school districts involved.~~

~~7.0 GENERAL PROVISIONS GOVERNING CONSOLIDATIONS OR ANNEXATIONS~~

~~7.01 All consolidations or annexations shall be accomplished so as not to create a school district that hampers, delays, or in any manner negatively affects the desegregation of another school district in this state.~~

~~7.02 The millage rate of the electors of the affected districts of a consolidation or annexation shall remain the same until an election may be held to change the rate of taxation for the resulting or receiving district.~~

~~7.03 Upon the State Board's approval of a petition for annexation or consolidation or the approval of an annexation or consolidation pursuant to the State Board's own motion, the effective date of the annexation or consolidation shall be the July 1 following the order of the State Board directing the annexation or consolidation, unless the State Board determines otherwise.~~

~~8.0 BOARDS OF DIRECTORS OF LOCAL SCHOOL DISTRICTS~~

~~8.01 The State Board shall afford the school districts involved in an annexation or consolidation thirty (30) days from the date of its order granting the annexation or consolidation to establish an interim board to govern the~~

~~receiving or resulting district, with the interim board to be selected pursuant to the provisions of either Ark. Code Ann. §§ 6-13-1405, 6-13-1406, 6-13-1412 or 6-13-1413.~~

- ~~8.02 The provisions of Ark. Code Ann. §§ 6-13-1405, 6-13-1406, 6-13-1412 and 6-13-1413 shall govern the board of directors of each resulting or receiving school district created from an annexation or consolidation.~~
- ~~8.03 All boards of directors of local school districts shall be made up on five (5), seven (7) or nine (9) members as allowed by law, unless the school district is under a valid court order otherwise directing the number and composition of the local board.~~
- ~~8.04 No board of directors shall have an even number of directors whether or not the number of directors of a school district's board of directors was established by an agreement between or among the former school districts, which comprise the school district incident to a consolidation or annexation of the former school districts.~~

BEFORE THE ARKANSAS STATE BOARD OF EDUCATION

IN THE MATTER OF THE ANNEXATION OF _____ SCHOOL DISTRICT(S) OF _____ COUNTY INTO THE _____ SCHOOL DISTRICT OF _____ COUNTY:

PETITION FOR ANNEXATION

COMES NOW the _____ School District(s) of _____ County and the _____ School District of _____ County (Petitioners), acting by and through their respective Superintendent(s) duly authorized, pursuant to A.C.A. § 6-13-1401 et seq., and petition the Arkansas State Board of Education (Board) to approve the annexation of the petitioning affected school district(s) into the petitioning receiving _____ School District, and hereby would submit to the Board as follows:

1. _____ Pursuant to A.C.A. § 6-13-1401 et seq., the Petitioners hereby submit and incorporate in this petition as Exhibit A attached hereto, proof of legally binding local board resolutions to annex the _____ School District(s) into the receiving _____ School District as approved by a majority of the quorum present of the local boards of education of the respective Petitioners.

2. _____ The Petitioners hereby submit and incorporate in this petition as Exhibit B attached hereto, proof of public notice of intent to petition this Board to annex the Petitioners into the receiving _____ School District. Said public notice of intent to annex (was)(was not) published in the local newspaper(s) of general circulation (or in a state newspaper of daily circulation if local newspaper does not exist on weekly

basis) of the affected districts for a time period of no less than once a week for two (2) consecutive weeks immediately prior to the filing of this petition with this Board.

3. — The Petitioners submit that at the proper school election following the petitioned annexation, the receiving _____ School District shall elect _____ local board members in compliance with A.C.A. §§ 6-13-1405, 6-13-1406, 6-13-1412 or 6-13-1413.

4. — The Petitioners submit that their respective school districts are geographically contiguous or that the Board should approve the petitioned non-contiguous annexation because the annexation will result in (a) the overall improvement in the educational benefit to students in all of the school districts involved, or (b) will provide a significant advantage in transportation costs or services to all of the school districts involved based on the following factual reasons:

5. — The Petitioners submit that they hereby request through the State Board, an Attorney General Opinion declaring whether the petitioned annexation will or will not hamper, delay or in any manner negatively affect the desegregation of another school district or districts in this state. Upon receipt, the resulting opinion shall be incorporated herein and attached hereto as Exhibit C.

6. — Pursuant to A.C.A. § 6-13-1401 et seq., the Petitioners hereby submit and declare that the effective date of this petitioned annexation shall be July 1, and that there

shall be only one local school board and one local superintendent of the receiving
_____ School District.

7. The Petitioners hereby submit an affidavit of facts by the superintendent of the affected school district(s), which is incorporated as Exhibit D, concerning the relevant status of any federal court-ordered supervision or jurisdiction of desegregation cases involving the affected districts.

WHEREFORE, Petitioners request that the Board approve the annexation of the _____ School District(s) of _____ County into the receiving _____ School District of _____ County; that it issue an Order dissolving the affected school district(s) and establishing the receiving _____ School District; that it issue an Order establishing the boundary lines of the receiving school district; and that it file its Order with the County Clerks of _____ and _____ Counties, Arkansas.

_____ Respectfully submitted,

_____ School District

_____ County

By: _____
Superintendent _____ Date

President, School Board _____ Date

_____ School District

_____ County

By: _____
Superintendent _____ Date

President, School Board _____ Date

~~BEFORE THE ARKANSAS STATE BOARD OF EDUCATION~~

~~IN THE MATTER OF THE CONSOLIDATION OF _____ SCHOOL DISTRICT(S) OF _____ COUNTY AND THE _____ SCHOOL DISTRICT OF _____ COUNTY:~~

PETITION FOR CONSOLIDATION

COMES NOW the _____ School District(s) of _____ County and the _____ School District of _____ County (Petitioners), acting by and through their respective Superintendent(s) duly authorized, pursuant to A.C.A. § 6-13-1401 et seq., and petition the Arkansas State Board of Education (Board) to approve the consolidation of the Petitioners into the resulting _____ School District, and hereby would submit to the Board as follows:

1. _____ Pursuant to A.C.A. § 6-13-1401 et seq., the Petitioners hereby submit and incorporate in this petition as Exhibit A attached hereto, proof of legally binding local board resolutions to consolidate the _____ and _____ School District(s) into the resulting _____ School District as approved by a majority of the quorum present of the local boards of education of the respective Petitioners.

2. _____ The Petitioners hereby submit and incorporate in this petition as Exhibit B attached hereto, proof of public notice of intent to petition this Board to consolidate the Petitioners into the resulting _____ School District. Said public notice of intent to consolidate (was)(was not) published in the local newspaper(s) of general circulation (or in state newspaper of local daily circulation if local newspaper does not exist on

~~weekly basis) of the affected districts for a time period of no less than once a week for two (2) consecutive weeks immediately prior to the filing of this petition with this Board.~~

3. ~~The Petitioners submit that at the proper school election following the petitioned consolidation, the resulting _____ School District shall elect _____ local board members in compliance with A.C.A. §§ 6-13-1405, 6-13-1406, 6-13-1412 or 6-13-1413.~~

4. ~~The Petitioners submit that their respective school districts are geographically contiguous or that the Board should approve the petitioned non-contiguous consolidation because the consolidation will result in (a) the overall improvement in the educational benefits to students in all of the school districts involved, or (b) will provide a significant advantage in transportation costs or services to all of the school districts involved based on the following factual reasons:~~

5. ~~The Petitioners submit that they hereby request through the State Board, an Attorney General Opinion declaring whether the petitioned consolidation will or will not hamper, delay or in any manner negatively affect the desegregation of another school district or districts in this state. Upon receipt, the resulting opinion shall be incorporated herein and attached hereto as Exhibit C.~~

6. ~~Pursuant to A.C.A. § 6-13-1401 et seq., the Petitioners hereby submit and declare that the effective date of this petitioned consolidation shall be July 1, and that~~

there shall be only one local school board and one local superintendent of the resulting
_____ School District.

7. _____ The Petitioners hereby submit an affidavit of facts by the superintendent
of the affected school districts, which is incorporated as Exhibit D, concerning the
relevant status of any federal court-ordered supervision or jurisdiction of desegregation
cases involving the affected districts.

WHEREFORE, Petitioners request that the Board approve the consolidation of
the _____ School District(s) of _____ County and the _____
School District of _____ County into the resulting _____ School District;
that it issue an Order dissolving the affected school districts and establishing the resulting
school district; that it issue an Order establishing the boundary lines of the resulting
school district; and that it file its Order with the County Clerks of the _____
and _____ Counties, Arkansas.

Respectfully submitted,

_____ School District

_____ County

By: _____
Superintendent _____ Date

President, School Board _____ Date

School District

County

By: _____

Superintendent _____ Date

President, School Board _____ Date

Exhibit A

SCHOOL BOARD RESOLUTION

COMES NOW the _____ School District Board acting by and through its Superintendent duly authorized and do herein declare:

A special or regular school board meeting was held on _____, 20____, wherein a quorum was present and a majority of the quorum voted to approve the consolidation/annexation of the _____ School District with the _____ School District, and the minutes of said meeting reflect such. Therefore, this document is to serve as the formal resolution of the _____ School District Board of Directors, pursuant to Arkansas law, that said consolidation/annexation is hereby approved.

_____ School District
of _____ County

By: _____
Superintendent _____ Date

By: _____
President, School Board _____ Date

EXHIBIT D

AFFIDAVIT CONCERNING DESEGREGATION ORDERS

COMES NOW the _____ School District, acting by and through its Superintendent, and hereby states and represents to the State Board of Education that, to the best of my knowledge, the _____ School District currently (circle one) (is)(is not) involved in desegregation litigation in a United States Federal Court or is under the continuing jurisdiction of a United States Federal Court Order regarding desegregation of a public school or schools (see "*" at bottom of affidavit).

Further the affiant sayeth not.

~~IN WITNESS WHEREOF~~, I hereunto set my hand this _____ day of _____, 20_____.

Superintendent

COUNTY of _____
STATE OF ARKANSAS

Sworn and subscribed before me, Notary Public, this _____ day of _____, 20_____.

Notary Public

My Commission expires:

* - If you answered, "is involved in desegregation litigation, etc." above, please attach a copy of any applicable Court orders or other relevant documentation.

**ARKANSAS DEPARTMENT OF EDUCATION
RULES GOVERNING THE DISTRIBUTION OF
CONSOLIDATION/ANNEXATION INCENTIVE FUNDING**
November 2005

1.0 — PURPOSE

- 1.01 — ~~These rules shall be known as the Arkansas Department of Education Rules Governing the Distribution of Consolidation/Annexation Incentive Funding.~~
- 1.02 — ~~It is the purpose of these rules to provide the method for allocation of funds to provide a monetary incentive for those school districts that are consolidating or annexing.~~

2.0 — AUTHORITY

- 2.01 — ~~The State Board of Education's authority for promulgation of these rules is pursuant to Ark. Code Ann. § 6-11-105 and Ark. Code Ann. § 6-13-1401 et seq.~~

3.0 — DEFINITIONS

- 3.01 — ~~“Affected District” means a school district that loses territory or students as a result of annexation or consolidation.~~
- 3.02 — ~~“Annexation” means the joining of an affected school district or part thereof with a receiving district.~~
- 3.03 — ~~“Average Daily Membership” (ADM) means the total number of days attended plus the total number of days absent by students in grades kindergarten through twelve (K-12) during the first three (3) quarters of each school year divided by the number of school days actually taught in the district during that period of time rounded up to the nearest hundredth.~~
- 3.04 — ~~“Consolidation” means the joining of two (2) or more school districts or parts thereof to create a new single school district.~~
- 3.05 — ~~“Foundation Funding” means an amount of money specified by the General Assembly for each school year to be expended by school districts for the provision of an adequate education for each student.~~
- 3.06 — ~~“Foundation Funding Amount per Student” means a dollar amount established by the General Assembly to be multiplied by the ADM of the previous school year for the district foundation funding.~~
- 3.07 — ~~“Funding Factor” means a factor established by the Arkansas Department of Education (Department) to ensure that the calculated funding does not exceed the funds available for consolidation/annexation incentive funding.~~
- 3.08 — ~~“Receiving District” means a school district or districts that receive territory, students, or both from an affected district as a result of annexation.~~
- 3.09 — ~~“Resulting District” means the new school district created from an affected district or districts as a result of consolidation.~~

4.0 — DISTRIBUTION GUIDELINES

4.01 — Consolidation/annexation incentive funding shall be determined as follows:

- 4.01.1 — ~~One hundred percent (100%) of the incentive allowance computed as provided in these rules shall be added to the school district's aid the first year of consolidation/annexation. The second year of consolidation/annexation the district shall receive fifty percent (50%) of the consolidation/annexation incentive funding granted the previous year in addition to other state aid. Beginning in the third year and each year thereafter no consolidation/annexation incentive funding shall be provided. The consolidation/annexation incentive is intended to supplement the customary state aid the districts would have received had the consolidation/annexation not occurred.~~
- 4.01.2 — ~~For those school districts not required to be consolidated/annexed in the current school year, if two (2) districts consolidate or one (1) district is annexed to another school district, multiply the prior year ADM of the smaller district by the foundation funding amount per student by the funding factor, where the minimum ADM applicable is one hundred (100) and the maximum ADM applicable is three hundred (300).~~
- 4.01.3 — ~~For those school districts required to be consolidated/annexed in the current school year, if two (2) districts consolidate or one (1) district is annexed to another school district, multiply the current year ADM of the smaller district by the foundation funding amount per student, by the funding factor, where the minimum ADM applicable is one hundred (100) and the maximum ADM applicable three hundred (300).~~
- 4.01.4 — ~~For those school districts not required to be consolidated/annexed in the current school year, if three (3) districts consolidate or two (2) districts are annexed to a third school district, multiply the total prior year ADM of the two (2) smaller districts by the foundation funding amount per student by the funding factor, where the minimum ADM applicable is one hundred (100) and the maximum ADM applicable is four hundred (400).~~
- 4.01.5 — ~~For those school districts required to be consolidated/annexed in the current school year, if three (3) districts consolidate or two (2) smaller districts are annexed to another school district, multiply the current year ADM of the smaller district by the foundation funding amount per student, by the funding factor, where the minimum ADM applicable is one hundred (100) and the maximum ADM applicable three hundred (300).~~
- 4.01.6 — ~~For those school districts not required to be consolidated/annexed in the current school year, if four (4) or more district consolidate or three (3) districts are annexed to a fourth school district, multiply the total prior year ADM of all except the largest district by the foundation funding amount per student by the funding factor, where the minimum ADM applicable is one hundred (100) and the maximum ADM applicable is five hundred (500).~~
- 4.01.7 — ~~For those school districts required to be consolidated/annexed in the current school year, if four (4) or more districts consolidate or three (3) or more districts are annexed to another school district, multiply the current year ADM of the smaller district by the foundation funding amount per student, by the funding factor, where the minimum ADM applicable is~~

one hundred (100) and the maximum ADM applicable three hundred (300).

~~4.01.8 If a district is annexed by multiple school districts, the incentive funding shall be computed as in 4.01.1—4.01.7 above. The incentive funding shall then be prorated among the receiving districts based upon the percentage of the annexed district's ADM received by each receiving district.~~

5.0 — GENERAL REQUIREMENTS

~~5.01 Consolidation/annexation incentive funding shall be distributed to either the resulting district(s) established after consolidation or the receiving district(s) after annexation.~~

~~5.02 Any district that has received consolidation/annexation incentive funds and subsequently dissolves shall be liable to the Department for the full or apportioned amount of incentive funding received if any of the following conditions result due to the dissolution:~~

~~5.02.1 Districts are formed with substantially the same boundaries as the former districts prior to consolidation or annexation;~~

~~5.02.2 The ability of any district to desegregate or remain desegregated is inhibited;~~

~~5.02.3 The ability of the State to ensure that students are provided a quality education in an efficient manner is inhibited.~~

~~5.03 Any repayment due, as required in 5.02 above, shall be paid from the assets of the district prior to dissolution of the district. The Department may withhold, from any state funding due the district, the amount of repayment funds or a portion thereof.~~

~~5.04 In the event full repayment is not made as required under 5.02 above, the Department shall withhold from those districts that are formed as a result of the dissolution, future state funding in the amount of the repayment owed. The repayment shall be apportioned among the districts on a per ADM basis unless the Department determines that such apportionment would be inequitable. In such case, the State Board of Education shall apportion the repayment among the districts upon an equitable basis.~~

ARKANSAS DEPARTMENT OF EDUCATION
RULES GOVERNING THE CLOSINGURE OF ISOLATED SCHOOLS
July 2005

1.00 PURPOSE

1.01 These rules shall be known as the Arkansas Department of Education Rules Governing the Closingure of Isolated Schools ~~Following an Annexation or Consolidation of Public School Districts.~~

2.00 AUTHORITY

2.01 The State Board of Education's enacted authority for promulgation of these rules is pursuant to Ark. Code Ann. §§ 6-11-105, and 6-13-1603, 6-20-602 and 25-15-201 et seq.

3.00 DEFINITIONS

3.01 "Affected district" means a school district that:

3.01.1 Loses territory or students as a result of an administrative annexation; or

3.01.2 Is involved in an administrative consolidation.

3.02 "Closure" means the cessation of use of an isolated school for the purpose of daily classroom instruction.

3.03 "Isolated school" means a school within a school district that:

3.03.1 Prior to administrative consolidation or annexation under Ark. Code Ann. § 6-13-1601 et seq. qualified as an isolated school district under Ark. Code Ann. § 6-20-601; and

3.03.2 Is subject to administrative consolidation under Ark. Code Ann. § 6-13-1601 et seq.

3.04 "Partial closure" means the cessation of daily classroom instruction in one or more grade levels of an isolated school. This definition does not include the cessation of daily classroom instruction in classrooms within a particular grade level.

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

- 3.06 "Resulting district" means the new school district created from an affected district or districts as a result of an administrative consolidation.
- ~~3.01 "Affected district" means a school district that loses territory or students as a result of administrative annexation or consolidation.~~
- ~~3.02 "Closure" means the cessation of use of a school or part thereof for the purpose of daily classroom instruction.~~
- ~~3.03 "Isolated school" means a school within a school district that, prior to administrative consolidation or annexation pursuant to Ark. Code Ann. §§ 6-13-1601 et seq., qualified as an isolated school district under Ark. Code Ann. § 6-20-602.~~
- ~~3.04 "Partial closure" means the cessation of some, but not all, daily classroom instruction within a school (e.g., changing the use of the school from grades one (1) through eight (8) to grade one (1) through five (5)).~~
- ~~3.05 "Receiving district" means a school district that receives territory or students, or both, from an affected district as a result of an administrative annexation.~~
- ~~3.06 "Resulting district" means the new school district created from an affected district or districts as a result of an administrative consolidation.~~

4.00 CLOSING OF ISOLATED SCHOOLS

- 4.01 Any isolated school within a resulting or receiving district shall remain open unless the school board of directors of the resulting or receiving district adopts a motion to close the isolated school or parts thereof by:
- 4.01.1 Unanimous vote of the full board of directors; or
- 4.01.2 A majority vote of the full board of directors, but less than a unanimous vote, and the motion is considered by and approved by a majority vote of members of the State Board of Education (State Board).
- 4.02 Any school board of directors seeking the state board approval to close isolated schools or parts thereof under subdivision 4.01.2 of these rules shall:
- 4.02.1 No less than thirty (30) days prior to a regularly scheduled State Board meeting, request a hearing on the matter before the State Board and file a petition to have the motion reviewed and approved by the State Board.

4.02.2 The petition shall:

- 4.02.2.1 Identify the specific isolated schools or part thereof that the local board of directors has moved to close;
- 4.02.2.2 State all reasons that the isolated schools or part thereof should be closed;
- 4.02.2.3 State how the closure will serve the best interests of the students in the district as a whole;
- 4.02.2.4 State if the closure will have any negative impact on desegregation efforts or violate any valid court order from a court of proper jurisdiction; and
- 4.02.2.5 Have attached a copy of the final motion approving the closure by the local board of directors.

4.03 Upon receiving a petition for approval of a motion to close all or part of an isolated school under subdivisions 4.01.2 and 4.02 of these rules, the State Board shall have the authority to review and approve or disapprove the petition.

4.04 The State Board shall only approve a motion to close isolated schools or parts thereof under subdivisions 4.01.2 and 4.02 of these rules if the closure is in the best interest of the students in the school district as a whole.

4.05 The State Board shall not close a school if the State Board finds that the closure will have any negative impact on desegregation efforts or will violate any valid court order from a court of proper jurisdiction.

4.06 Except under subsection 4.07 of these rules, the State Board shall not require the closure of all or part of an isolated school without a motion from the local board of directors as required under subdivisions 4.01.2 and 4.02 of these rules.

4.07 Ark. Code Ann. § 6-20-602 and these rules shall not be construed to restrict the authority of the Department of Education and the State Board otherwise granted by law.

4.08 Funding for isolated school districts shall be expended by the resulting or receiving district only on the operation, maintenance, and other expenses of the isolated schools within the resulting or receiving district.

~~4.01—Procedures for Closure by Local School District Board of Directors~~

~~Isolated schools within resulting or receiving districts shall remain open unless:~~

~~4.01.1—The school board of the resulting or receiving school district adopts a motion to close the isolated school or parts thereof by:~~

~~4.01.1.2—Unanimous vote of the full board of directors, or~~

~~4.01.1.3—A majority vote of the full board of directors, but less than a unanimous vote, and such motion is considered by and approved by a majority vote of members of the State Board of Education.~~

~~4.02—Procedures For State Board of Education Consideration of Local School District's Motion To Close Part or All of an Isolated School~~

~~Any school board seeking the State Board of Education's approval to close an isolated school or schools or parts thereof pursuant to Section 4.01 above shall do the following:~~

~~4.02.1—Request, in writing, a hearing on the matter of the isolated school closure before the State Board of Education no less than thirty (30) days before a regularly scheduled meeting of the State Board of Education.~~

~~4.02.2—The hearing request shall be accompanied by a petition to have the local school board's motion on the matter of the isolated school's closure reviewed and approved by the State Board of Education. Hearing requests which are not accompanied by a petition shall be returned to the submitting school district and shall not be considered by the State Board of Education.~~

~~4.02.3—The petition shall address all of the following:~~

~~4.02.3.1—Identify the specific isolated schools or part thereof that the local board has moved to close;~~

~~4.02.3.2—State all reasons that the isolated schools or part thereof shall be closed;~~

~~4.02.3.3—State how the closure will serve the best interests of the students in the district as a whole;~~

~~4.02.3.4 — State if the closure will have any negative impacts on desegregation efforts or violate any valid court order from a court of proper jurisdiction; and~~

~~4.02.3.5 — Have attached a copy of the final motion approving the closure by the local board of directors.~~

~~4.03 — Upon reviewing the local school board's motion to close all or part of an isolated school or schools, the State Board of Education shall have the authority to review and approve or disapprove the petition.~~

~~4.04 — The State Board of Education shall only approve a local school board's motion to close all or part of an isolated school or schools if the closure is in the best interest of the students in the school district as a whole.~~

~~4.05 — The State Board of Education shall not close a school if it finds that the closure will have any negative impact on desegregation efforts or will violate a court order from a court of competent jurisdiction.~~

~~4.06 — The State Board of Education is not authorized to require the closure of an isolated school, or any parts thereof, without a motion from the local school board of directors as described in Section 4.01 above.~~

~~4.07 — This Rule shall become effective on August 12, 2005.~~

5.00 STATE BOARD HEARING PROCEDURES – CLOSURE OF ISOLATED SCHOOLS

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

5.02 The spokesperson(s) for the petitioning school district shall have a total of fifteen (15) minutes to present the school district's remarks. The State Board may allow more than fifteen (15) minutes if necessary.

5.03 The spokesperson(s) for any individual or group of citizens that opposes the petition shall have a total of fifteen (15) minutes to present the remarks of the individual or group of citizens. The State Board may allow more than fifteen (15) minutes if necessary.

5.04 The spokesperson(s) for the petitioning school district shall have a total of five (5) minutes to present closing remarks to the State Board. The State Board may allow more than five (5) minutes if necessary.

5.05 The State Board shall then discuss, deliberate and vote upon the matter of approving or denying the school district's petition.

5.06 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 in a public hearing.

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

**ARKANSAS DEPARTMENT OF EDUCATION RULES GOVERNING
CONSOLIDATION AND ANNEXATION OF SCHOOL DISTRICTS**

1.00 PURPOSE

1.01 The purpose of these rules is to establish the requirements and procedures concerning the consolidation and annexation of school districts; the administrative consolidation and annexation of school districts; and the distribution of consolidation/annexation incentive funding.

2.00 AUTHORITY

2.01 The State Board of Education (State Board) enacts these rules pursuant to the authority granted by Ark. Code Ann. §§ 6-11-105, 6-13-1401 et seq., 6-13-1601 et seq., 25-15-201 et seq., and annual appropriations of the Arkansas General Assembly.

3.00 DEFINITIONS

3.01 “Administrative annexation” means the joining of an affected school district or a part of the school district with a receiving school district;

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

3.03 “Affected district” means a school district that:

3.03.1 Loses territory or students as a result of annexation or administrative annexation; or

3.03.2 Is involved in a consolidation or administrative consolidation.

3.04 “Aggrieved district” means the lawfully constituted and existing board of directors of a school district that gains or loses territory or students as a result of an annexation, administrative annexation, consolidation, or administrative consolidation;

3.05 “Annexation” means the joining of an affected school district or part thereof with a receiving district;

3.06 “Average daily membership (ADM)” means the total number of days attended plus the total number of days absent by students in grades kindergarten through twelve (K-12) during the first three (3) quarters of each school year divided by the

number of school days actually taught in the school district during that period of time rounded up to the nearest hundredth.

3.06.1 Students who may be counted for average daily membership are:

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

3.06.1.2 Legally transferred students living outside the school district but attending a public school in the school district; and

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

3.07 “Consolidation” means the joining of two (2) or more affected school districts or parts thereof to create a new single school district;

3.08 “Receiving district” means a school district or districts that receive territory or students, or both, from an affected district as a result of annexation or administrative annexation;

3.09 “Resulting district” means the new school district created from affected districts as a result of consolidation or administrative consolidation.

Source: Ark. Code Ann. §§ 6-13-1401 and 6-13-1601

4.00 CONSOLIDATION AND ANNEXATION AUTHORITY OF THE STATE BOARD

4.01 There shall not be any consolidation or annexation of any public school district with any other school district in the state without the prior consent and approval of the State Board.

Source: Ark. Code Ann. § 6-13-1402

CONSOLIDATION AND ANNEXATION OF SCHOOL DISTRICTS

5.00 CONDITIONS UNDER WHICH THE STATE BOARD OF EDUCATION MAY ANNEX SCHOOL DISTRICTS

5.01 The State Board shall consider the annexation of an affected school district or districts to a receiving district or districts under any of the following conditions:

5.01.1 The State Board, after providing thirty (30) days written notice to the affected school districts, determines that annexation is in the best interest of the affected district or districts and the receiving district based upon failure to meet standards for accreditation or failure to meet academic, fiscal, or facilities distress requirements pursuant to The Quality Education Act of 2003, Ark. Code Ann. § 6-15-201 et seq., the Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, Ark. Code Ann. § 6-15-401 et seq., the Arkansas Fiscal Assessment and Accountability Program, Ark. Code Ann. § 6-20-1901 et seq., and the Arkansas Public School Academic Facilities Program Act, Ark. Code Ann. § 6-21-801 et seq.;

5.01.2 The affected district or districts file a petition with the State Board requesting annexation to a particular receiving district or districts, and a copy of the petition is filed with the county clerk's office of each county where the affected district or districts are located;

5.01.2.1 The county clerk's office of each county where the affected district or districts are located certifies in writing that the petition has been signed by a majority of the qualified electors of the affected district or districts; and

5.01.2.2 The receiving district or districts provide to the State Board written proof of consent to receive the affected district or districts by annexation as evidenced by either a vote to approve annexation by resolution by a majority of the members of the local receiving board of education or by a vote to approve annexation by a majority of the qualified electors of the receiving district as provided for in Ark. Code Ann. § 6-14-122;

5.01.3 A majority of the qualified electors in the affected district or districts vote to approve the annexation of an affected school district or districts to a receiving district or districts as provided for in Ark. Code Ann. § 6-14-122; and

5.01.3.1 The receiving district or districts provide to the State Board written proof of consent to receive the affected district or

districts by annexation as evidenced by either a vote to approve annexation by resolution by a majority of the members of the local receiving board of education or by a vote to approve annexation by a majority of the qualified electors of the receiving district as provided in Ark. Code Ann. § 6-14-122; or

5.01.4 The local board of education of the affected district or districts votes to approve by resolution the annexation of the affected district or districts to a receiving district or districts by a majority of the members of the local board of education of the affected district or districts; and

5.01.4.1 The receiving district or districts provide to the State Board written proof of consent to receive the affected district or districts by annexation as evidenced by either a vote to approve annexation by resolution by a majority of the members of the local receiving board of education or by a vote to approve annexation by a majority of the qualified electors of the receiving districts as provided for in Ark. Code Ann. § 6-14-122.

5.02 The State Board may vote to approve, by a majority of a quorum present of the members of the State Board, the annexation of the affected districts into a receiving district:

5.02.1 The State Board, after providing thirty (30) days written notice to the affected districts, may on its own motion based on a school district's failure to meet standards for accreditation or failure to meet academic, fiscal, or facilities distress requirements pursuant to The Quality Education Act of 2003, Ark. Code Ann. § 6-15-201 et seq., the Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, Ark. Code Ann. § 6-15-401 et seq., the Arkansas Fiscal Assessment and Accountability Program, Ark. Code Ann. § 6-20-1901 et seq., and the Arkansas Public School Academic Facilities Program Act, Ark. Code Ann. § 6-21-801 et seq.; or

5.02.2 Upon receipt of a valid petition for annexation and after receiving proof from the petitioning party of at least one (1) of the required conditions set forth in Ark. Code Ann. § 6-13-1403(a) and Section 5.01 of these rules, and upon receipt of proof of the issuance of public notice of the intent to annex affected districts into a receiving district or districts in the local newspapers of general circulation in the affected districts for a time period of no less than one (1) time a week for two (2) consecutive weeks immediately prior to the time the petition is filed with the State Board.

- 5.03 In order for the petition for annexation to be valid, it shall be filed with the State Board at least thirty (30) days prior to the next regularly scheduled State Board meeting, at which time the petition will be presented for hearing before the State Board. However, no petition is required for the State Board to annex a school district or districts upon a motion of the State Board as allowed in Ark. Code Ann. § 6-13-1403(b) and Section 5.02 of these rules.
- 5.04 Upon determination by the State Board to annex a school district or approval of a petition requesting annexation, the State Board shall issue an order dissolving the affected district or districts and establishing the receiving district or districts.
- 5.04.1 The State Board shall issue an order establishing the boundary lines of the receiving district or districts.
- 5.04.2 It shall be the duty of the Department of Education to make changes in the maps of the school districts to properly show the boundary lines of the receiving district or districts.
- 5.05 The State Board shall:
- 5.05.1 Issue an order establishing the changed boundaries; and
- 5.05.2 File the order with the:
- 5.05.2.1 County clerk of each county that contains school district territory of each affected or receiving district;
- 5.05.2.2 Secretary of State; and
- 5.05.2.3 Arkansas Geographic Information Office.
- 5.05.3 The county clerk shall make a permanent record of the order.
- 5.05.4 A consolidation or annexation order filed with the Secretary of State and the Arkansas Geographic Information Office shall include a digital map showing the boundaries of the resulting district or receiving district in a format prescribed by the Arkansas Geographic Information Office.
- 5.05.5 The boundaries established by the State Board pursuant to Ark. Code Ann. § 6-13-1403(e) and Section 5.05 of these rules shall be the boundaries of the receiving district or districts until changes are made according to the provisions of law.
- 5.06 The State Board shall not annex affected districts into a receiving district or districts that are not geographically contiguous unless the following limited conditions are determined to be valid reasons for annexation:

5.06.1 The annexation will result in the overall improvement in the educational benefit to students in all the school districts involved; or

5.06.2 The annexation will provide a significant advantage in transportation costs or service to all the school districts involved.

Source: Ark. Code Ann. §§ 6-13-1403, 6-13-1415, & 6-13-1416

6.00 CONDITIONS UNDER WHICH THE STATE BOARD OF EDUCATION MAY CONSOLIDATE SCHOOL DISTRICTS

6.01 The State Board shall consider the consolidation of affected districts into a new resulting district or districts under the following conditions:

6.01.1 The State Board, after providing thirty (30) days written notice to the affected school districts, determines consolidation is in the best interest of the affected districts based upon failure to meet standards for accreditation or academic, fiscal, or facilities distress requirements pursuant to The Quality Education Act of 2003, Ark. Code Ann. § 6-15-201 et seq., the Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, Ark. Code Ann. § 6-15-401 et seq., the Arkansas Fiscal Assessment and Accountability Program, Ark. Code Ann. § 6-20-1901 et seq., and the Arkansas Public School Academic Facilities Program Act, Ark. Code Ann. § 6-21-801 et seq.; or

6.01.2 The affected districts file a petition with the State Board requesting that the affected districts be consolidated into a resulting district or districts;

6.01.2.1 A copy of the petition has been filed with the county clerk's office of each county where the affected districts are located;

6.01.2.2 The county clerk's office certifies in writing to the State Board that the petition has been signed by a majority of the qualified electors of the affected districts;

6.01.2.3 A majority of the qualified electors in the affected districts votes to approve consolidation of the affected districts into a resulting district or districts pursuant to a valid election as provided in Ark. Code Ann. § 6-14-122; and

6.01.2.4 The local board of directors votes to approve by resolution of a majority of the members of each local board of education the consolidation of the affected districts into a resulting district or districts.

6.02 The State Board:

6.02.1 After providing thirty (30) days written notice to the affected districts, may consolidate school districts upon its own motion based upon a school district's failure to meet standards for accreditation or academic, fiscal, or facilities distress requirements pursuant to The Quality Education Act of 2003, Ark. Code Ann. § 6-15-201 et seq., the Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, Ark. Code Ann. § 6-15-401 et seq., the Arkansas Fiscal Assessment and Accountability Program, Ark. Code Ann. § 6-20-1901 et seq., and the Arkansas Public School Academic Facilities Program Act, Ark. Code Ann. § 6-21-801 et seq.; or

6.02.2 May vote to approve by a majority of a quorum present of the members of the State Board the consolidation of the affected districts into a resulting district or districts upon receipt of a valid petition for consolidation after receiving proof from the petitioning party of at least one (1) of the required conditions set forth in Ark. Code Ann. § 6-13-1404(a) and Section 6.01 of these rules, and upon receipt of proof of the issuance of public notice of the intent to consolidate affected districts into a resulting district or districts in the local newspapers of general circulation in the affected districts for a time period of no less than one (1) time a week for two (2) consecutive weeks immediately prior to the time the petition is filed with the State Board.

6.03 In order for the petition for consolidation to be valid, it shall be filed with the State Board at least thirty (30) days prior to the next regularly scheduled State Board meeting, at which time the petition will be presented for hearing before the State Board. However, no petition is required for the State Board to consolidate a school district or districts on a motion of the State Board as allowed Ark. Code Ann. § 6-13-1404(b) and Section 6.02 of these rules.

6.04 Upon consolidation of a school district by the State Board or approval of a petition requesting consolidation, the State Board shall issue an order dissolving the affected districts and establishing the resulting district or districts.

6.04.1 The State Board shall issue an order establishing the boundary lines of the resulting district or districts.

6.04.2 It shall be the duty of the Department of Education to make changes in the maps of the school districts to properly show the boundary lines of the resulting district or districts.

6.05 The State Board shall:

6.05.1 Issue an order establishing the changed boundaries; and

6.05.2 File the order with the:

6.05.2.1 County clerk of each county that contains school district territory of each affected or resulting district;

6.05.2.2 Secretary of State; and

6.05.2.3 Arkansas Geographic Information Office.

6.05.3 The county clerk shall make a permanent record of the order.

6.05.4 A consolidation or annexation order filed with the Secretary of State and the Arkansas Geographic Information Office shall include a digital map showing the boundaries of the resulting district or receiving district in a format prescribed by the Arkansas Geographic Information Office.

6.05.5 The boundaries established under this subsection shall be the boundaries of the resulting district or districts until changes are made according to the provisions of law.

6.06 The State Board shall not consolidate affected districts that are not geographically contiguous unless the following limited conditions are determined to be valid reasons for consolidation:

6.06.1 The consolidation will result in the overall improvement in the educational benefit to students in all the school districts involved; or

6.06.2 The consolidation will provide a significant advantage in transportation costs or service to all the school districts involved.

Source: Ark. Code Ann. §§ 6-13-1404, 6-13-1415, & 6-13-1416

7.00 RESULTING DISTRICT SUCCESSOR IN INTEREST – WHEN PART OF DISTRICT TAKEN

7.01 Any receiving or resulting district created under Ark. Code Ann. § 6-13-1407 and Section 7.00 of these rules shall become the successor in interest to the property of the school district dissolved, shall become liable for the contracts and debts of such a school district, and may sue and be sued therefor.

7.02 When territory less than the entire school district is annexed or consolidated to a school district, the receiving or resulting district shall take the property of the

school district from which the territory was taken, as the State Board shall deem proper, and shall be liable for that part of all indebtedness of the school district from which the territory was taken as shall be assigned to it by the State Board unless otherwise approved by a majority vote of the affected school district's or districts' board or boards of directors.

Source: Ark. Code Ann. § 6-13-1407

8.00 ANNEXATION OR CONSOLIDATION NOT TO NEGATIVELY IMPACT STATE-ASSISTED DESEGREGATION

8.01 The State Board shall not order any annexation or consolidation pursuant to Title 6, Chapter 13, Subchapter 14, or any other act or any combination of acts which hampers, delays, or in any manner negatively affects the desegregation efforts of a school district or districts in this state.

8.02 Prior to the entry of any order under Title 6, Chapter 13, Subchapter 14, the State Board shall seek an advisory opinion from the Attorney General concerning the impact of the proposed annexation or consolidation on the effort of the state to assist a school district or districts in desegregation of the public schools of this state.

8.03 Any order of annexation or consolidation or combination thereof that violates the provisions of Ark. Code Ann. § 6-13-1408 and Section 8.00 of these rules shall be null and void.

Source: Ark. Code Ann. § 6-13-1408

9.00 OTHER STATE BOARD OF EDUCATION DUTIES

9.01 The State Board shall have the following duties regarding consolidations and annexations:

9.01.1 To form local school districts, change boundary lines of school districts, dissolve school districts and annex the territory of those school districts to another school district, create new school districts, and perform all other functions regarding changes in school districts in accordance with the law;

9.01.2 To transfer funds and attach territory that is in no school district to other school districts as may seem best for the educational welfare of the children; and

9.01.3 To enact rules and regulations regarding the consolidation and annexation of school districts pursuant to Title 6 of the Arkansas Code.

9.02 The millage rate of the electors of an affected district shall remain the same until an election may be held to change the rate of taxation for the resulting or receiving district or districts.

Source: Ark. Code Ann. § 6-13-1409

10.00 APPEAL AND ELECTION

10.01 Notwithstanding any other provision of law or rule of the State Board, the decision of the State Board regarding an administrative consolidation, consolidation, administrative annexation, or annexation shall be final with no further right of appeal except that only an aggrieved district may appeal to Pulaski County Circuit Court pursuant to the Arkansas Administrative Procedure Act, Ark. Code Ann. § 25-15-201 et seq.

Source: Ark. Code Ann. § 6-13-1410

11.00 USE OF FUND BALANCES

11.01 Unless otherwise approved by a unanimous vote of the board of directors of the resulting district, the fund balances of any school district that is consolidated, annexed, or otherwise reorganized shall be used by the resulting district solely for the construction of facilities or the operation, maintenance, or support of the schools that were located in the affected school district from which the fund balance was derived if any of the facilities of the affected district from which the fund balance was derived remain open.

11.02 The provisions of Ark. Code Ann. § 6-13-1411 and Section 11.00 of these rules shall not apply if the consolidation or annexation is because of the school district's failure to meet standards for accreditation or failure to meet academic or fiscal distress requirements pursuant to The Quality Education Act of 2003, Ark. Code Ann. § 6-15-201 et seq., the Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, Ark. Code Ann. § 6-15-401 et seq., or the Arkansas Fiscal Assessment and Accountability Program, Ark. Code Ann. § 6-20-1901 et seq.

Source: Ark. Code Ann. § 6-13-1411

12.00 INVOLUNTARY ANNEXATION OR CONSOLIDATION – EFFECTIVE DATE – INTERIM BOARD OF DIRECTORS

12.01 Ark. Code Ann. § 6-13-1415 and Section 12.00 of these rules apply to the involuntary consolidation or involuntary annexation of a school district made by a motion of the State Board.

12.02 The effective date of an involuntary consolidation or involuntary annexation of a school district shall be the July 1 after the State Board action unless determined otherwise by the State Board.

12.03 The State Board shall establish the terms and conditions of the involuntary consolidation or involuntary annexation that shall govern the affected districts, resulting districts, and receiving districts.

12.04 If the State Board determines that a new permanent board of directors is necessary, the State Board shall prescribe:

12.04.1 The number of members for the new permanent board of directors of the resulting district or receiving district;

12.04.2 The manner of formation of the new permanent board of directors of the resulting district or receiving district under Ark. Code Ann. § 6-13-1417 and Section 14.00 of these rules; and

12.04.3 Whether the new permanent board of directors will be elected at the first or second school election after the effective date of consolidation or annexation. The election for the new permanent school board of directors may take place during the second school election after the effective date of consolidation or annexation only if the State Board determines that additional time is required to implement single-member zoned elections.

12.05 If the State Board determines that an interim board of directors is necessary, the State Board shall prescribe:

12.05.1 The number of members for the interim board of directors of the resulting district or receiving district;

12.05.2 The terms of the members of the interim board of directors of the resulting district or receiving district; and

12.05.3 The manner of formation of the interim board of directors of the resulting district or receiving district. The State Board may:

12.05.3.1 Allow the affected districts and receiving districts thirty (30) days to establish an interim board of directors to govern the resulting district or receiving district that consists of either five (5) or seven (7) members selected from the boards of directors from the affected districts and receiving districts based on the proportion of the student

population of each of the affected districts and receiving districts before consolidation or annexation;

12.05.3.2 Appoint an interim board of directors to govern the resulting or receiving district that consists of either five (5) or seven (7) members selected from the boards of directors from the affected districts and receiving districts based on the proportion of the student population of each of the affected districts and receiving districts before consolidation or annexation; or

12.05.3.3 Designate the existing board of directors of one (1) affected district in a consolidation or the existing board of directors of the receiving district in an annexation as the interim board to govern the resulting district or receiving district.

12.06 The State Board may determine that an interim board of directors is not necessary and may order the existing board of directors of one (1) affected district in a consolidation or the existing board of directors of the receiving district in an annexation to remain as the permanent school board of directors.

12.07 An interim board of directors shall serve until the first school election after the effective date of consolidation or annexation unless:

12.07.1 Any members of the permanent board of directors of the resulting district or receiving district are elected from single-member zones, then the interim board of directors may serve until the second school election after the effective date of consolidation or annexation under Ark. Code Ann. § 6-13-1415(d)(1)(C) and Section 12.04.3 of these rules; or

12.07.2 All the members of the permanent board of directors of the resulting district or receiving district are elected at-large, then the State Board may stagger the terms of the interim board of directors, which shall be determined by lot so that no more than two (2) members' terms expire during any one (1) year.

12.08 If the State Board allows the local school districts time to establish an interim board of directors, the board of directors of each affected district before the consolidation or each affected district and receiving district before the annexation may determine independently how to select members of the existing board of directors to serve on the interim board of directors, subject to approval by the State Board, by:

12.08.1 The voluntary resignation of one (1) or more members of the existing board of directors;

12.08.2 Selecting one (1) or more members of the existing board of directors by a majority vote of the school board; or

12.08.3 Selecting one (1) or more members of the existing board of directors by a random lot drawing.

12.09 An interim board of directors shall be established by May 31 of the year preceding the effective date of administrative consolidation or administrative annexation under Ark. Code Ann. § 6-13-1603 if the State Board determines that an interim board of directors is necessary.

12.10 A consolidation or annexation order adopted by the State Board shall be filed with the:

12.10.1 County clerk of each county that contains school district territory of each affected district, receiving district, or resulting district;

12.10.2 Secretary of State; and

12.10.3 Arkansas Geographic Information Office.

12.11 A consolidation or annexation order shall include a map of the boundaries of the resulting district or receiving district.

12.12 A consolidation or annexation order filed with the Secretary of State and the Arkansas Geographic Information Office shall include a digital map showing the boundaries of the resulting district or receiving district in a format prescribed by the Arkansas Geographic Information Office.

Source: Ark. Code Ann. § 6-13-1415

13.00 VOLUNTARY CONSOLIDATION OR ANNEXATION – EFFECTIVE DATE – INTERIM BOARD OF DIRECTORS

13.01 Ark. Code Ann. § 6-13-1416 and Section 13.00 of these rules apply to any petition for consolidation or annexation of a school district submitted to the State Board by a school district.

13.02 The effective date of a petition for consolidation or annexation of a school district shall be the July 1 after the State Board approves the consolidation or annexation petition unless the State Board approves an alternative effective date or determines otherwise.

13.03 Each board of directors of an affected district and receiving district shall enter into a written agreement approved by the quorum of the members of each board

of directors present and executed by the president and secretary of each school board of directors.

13.03.1 The written agreement may prescribe the effective date of the annexation of the affected district to the receiving district or the effective date of the formation of the resulting district from consolidation of affected districts, subject to approval by the state board.

13.03.2 The written agreement may prescribe the number of members of the permanent board of directors of the resulting district or receiving district and the manner of formation of the permanent board of directors of the resulting district or receiving district under Ark. Code Ann. § 6-13-1417 or as allowed by law.

13.03.2.1 If the written agreement prescribes the formation of a new permanent board of directors, the written agreement shall specify whether the new permanent board of directors will be elected at the first or second school election after the effective date of consolidation or annexation.

13.03.2.2 The election of a new permanent board of directors may take place during the second school election after the effective date of consolidation or annexation only if additional time is necessary to implement single-member zoned elections.

13.04 The written agreement may prescribe for the formation of an interim board of directors, including the number of members, the length of member terms, and the manner of formation as follows:

13.04.1 Establish an interim board of directors to govern the resulting district or receiving district that consists of either five (5) or seven (7) members selected from the boards of directors from the affected districts and receiving districts based on the proportion of the student population of each of the affected districts and receiving districts before consolidation or annexation;

13.04.2 Designate the existing board of directors of one (1) affected district in a consolidation or the existing board of directors of the receiving district in an annexation as the interim board of directors; or

13.04.3 Determine that an interim board of directors is not necessary and may designate the existing board of directors of one (1) affected district in a consolidation or the existing board of directors of the

receiving district in an annexation to remain as the permanent school board of directors.

13.05 If the written agreement prescribes the formation of an interim board of directors, the interim board of directors shall serve until the first school election after the effective date of consolidation or annexation unless:

13.05.1 Any members of the permanent board of directors of the resulting district or receiving district are elected from single-member zones, then the interim board of directors may serve until the second school election after the effective date of consolidation or annexation under Ark. Code Ann. § 6-13-1416(c)(3)(B) and Sections 13.03.2.1 and 13.03.2.2 of these rules; or

13.05.2 All the members of the permanent board of directors of the resulting district or receiving district are elected at-large, then the State Board may stagger the terms of the interim board of directors, which shall be determined by lot so that no more than two (2) members' terms expire during any one (1) year.

13.06 If the written agreement prescribes formation of an interim board of directors, the board of directors of the affected district before the consolidation or the affected district and receiving district before annexation may determine independently how to select members of the existing board of directors to serve on the interim board of directors by:

13.06.1 The voluntary resignation of one (1) or more members of the existing board of directors;

13.06.2 Selecting one (1) or more members of the existing board of directors by a majority vote of the school board; or

13.06.3 Selecting one (1) or more members of the existing board of directors by a random lot drawing.

13.07 If the written agreement in an administrative consolidation or an administrative annexation under Ark. Code Ann. § 6-13-1603 requires the formation of an interim board of directors, the interim board of directors shall be established by May 31 preceding the effective date of the administrative consolidation or administrative annexation.

13.08 An executed copy of the written agreement shall be attached to the petition for consolidation or annexation submitted to the State Board.

13.08.1 If the written agreement is approved by the State Board, the terms of the written agreement shall be binding upon the affected

districts, receiving districts, and resulting districts, including the interim and permanent school boards of directors.

13.08.2 A written agreement under Ark. Code Ann. § 6-13-1416 and Section 13.00 of these rules shall not be effective without approval from the State Board.

13.09 A consolidation or annexation petition approved by the State Board along with an executed copy of the written agreement shall be filed with the:

13.09.1 County clerk of each county that contains school district territory of each affected district, receiving district, or resulting district;

13.09.2 Secretary of State; and

13.09.3 Arkansas Geographic Information Office.

13.10 An approved consolidation or annexation petition shall include a map of the boundaries of the resulting district or receiving district.

13.11 An approved consolidation or annexation petition filed with the Secretary of State and the Arkansas Geographic Information Office shall include a digital map showing the boundaries of the resulting district or receiving district in a format prescribed by the Arkansas Geographic Information Office.

Source: Ark. Code Ann. § 6-13-1416

14.00 FORMATION OF A PERMANENT BOARD OF DIRECTORS

14.01 A permanent board of directors shall have either five (5) or seven (7) members unless the school district is allowed to have nine (9) members under Ark. Code Ann. § 6-13-604.

14.02 The length of the terms of the board of directors may be for the time period prescribed by law and:

14.02.1 Prescribed in the written agreement under Ark. Code Ann. § 6-13-1416 and Section 13.00 of these rules; or

14.02.2 Determined by the permanent board of directors.

14.03 At the first meeting of the permanent board of directors, the members shall determine the terms of the board of directors by lot so that not more than two (2) members' terms expire during any one (1) year.

14.04 A vacancy on the board of directors shall be filled as prescribed by law.

- 14.05 If single-member election zones are not necessary to comply with the Voting Rights Act of 1965 or with any other federal or state law, any or all of the members of the permanent board of directors may be elected at large.
- 14.06 A minimum of five (5) members of a permanent board of directors shall be elected from single-member election zones if one (1) or more of the following applies:
- 14.06.1 Single-member election zones are required to comply with the Voting Rights Act of 1965 or other federal law;
- 14.06.2 The resulting district or receiving district after consolidation or annexation is required to be zoned under Ark. Code Ann. § 6-13-631 or other state law; or
- 14.06.3 The boards of directors of the affected districts before consolidation or the boards of directors of the affected districts and receiving districts before annexation agree that the permanent board of directors shall be elected from single-member election zones.
- 14.07 If single-member election zones are necessary to comply with the Voting Rights Act of 1965, other federal law, or state law, the resulting district or receiving district shall:
- 14.07.1 Review the demographic makeup and boundaries of the zones based on the latest decennial census data of the resulting district or receiving district after consolidation or annexation and rezone the resulting district or receiving district as necessary to comply with the Voting Rights Act of 1965, other federal law, or state law;
- 14.07.2 Complete the election rezoning no later than one hundred twenty (120) calendar days before the second school election following the effective date of the consolidation or annexation; and
- 14.07.3 File a digital map detailing the election zone boundaries of the resulting district or receiving district with the Secretary of State and the Arkansas Geographic Information Office in a format prescribed by the Arkansas Geographic Information Office no later than one hundred twenty (120) calendar days before the second school election following the effective date of the consolidation or annexation.

Source: Ark. Code Ann. § 6-13-1417

**ADMINISTRATIVE CONSOLIDATION AND ANNEXATION
OF SCHOOL DISTRICTS**

15.00 ADMINISTRATIVE CONSOLIDATION LIST

15.01 By January 1 of each year, the Department of Education shall publish a:

15.01.1 List of all school districts with fewer than three hundred fifty (350) students according to the school district average daily membership in the school year immediately preceding the current school year; and

15.01.2 Consolidation list that includes all school districts with fewer than three hundred fifty (350) students according to the school district average daily membership in each of the two (2) school years immediately preceding the current school year.

Source: Ark. Code Ann. § 6-13-1602

16.00 ADMINISTRATIVE REORGANIZATION

16.01 Any school district included in the Department of Education’s consolidation list under Ark. Code Ann. § 6-13-1602 may voluntarily agree to administratively consolidate with or be annexed to another school district or districts in accordance with the requirements and limitations of Ark. Code Ann. § 6-13-1603 and Section 16.00 of these rules.

16.02 Any school district on the consolidation list choosing to voluntarily administratively consolidate or annex shall submit a petition for approval to the State Board by March 1 immediately following publication of the list and shall set forth the terms of the administrative consolidation or annexation agreement in the petition. If the petition is approved by the State Board, the administrative consolidation or annexation shall be completed by May 1, to be effective July 1 immediately following the publication of the list required under Ark. Code Ann. § 6-13-1602 and Section 15.00 of these rules.

16.03 Any school district on the consolidation list that does not submit a petition under Ark. Code Ann. § 6-13-1603(a)(2)(A) or Section 16.02 of these rules, or that does not receive approval by the State Board for a voluntary consolidation or annexation petition, shall be administratively consolidated by the State Board with or into one (1) or more school districts by May 1, to be effective July 1 immediately following the publication of the list required under Ark. Code Ann. § 6-13-1602 and Section 15.00 of these rules.

16.04 The State Board shall promptly consider petitions or move on its own motion to administratively consolidate a school district on the consolidation list in order to

enable the affected school districts to reasonably accomplish any resulting administrative consolidation or annexation by July 1 immediately following the publication of the list required under Ark. Code Ann. § 6-13-1602 and Section 15.00 of these rules.

16.05 The State Board shall not deny the petition for voluntary administrative consolidation or annexation of any two (2) or more school districts unless:

16.05.1 The provisions contained in the articles of administrative consolidation or annexation would violate state or federal law; or

16.05.2 The voluntary consolidation or annexation would not contribute to the betterment of the education of students in the school district.

16.06 Any school district required to be administratively consolidated under Title 6, Chapter 13, Subchapter 16 and Section 16.00 of these rules shall be administratively consolidated in such a manner as to create a resulting district with an average daily membership meeting or exceeding three hundred fifty (350).

16.07 All administrative consolidations or annexations under Ark. Code Ann. § 6-13-1603 and Section 16.00 of these rules shall be accomplished so as not to create a school district that hampers, delays, or in any manner negatively affects the desegregation of another school district in this state.

16.08 In the administratively consolidated or annexed school districts created under Title 6, Chapter 13, Subchapter 16 and Section 16.00 of these rules, the ad valorem tax rate shall be determined as set forth under Ark. Code Ann. § 6-13-1409 and Section 9.00 of these rules.

16.09 Nothing in Ark. Code Ann. § 6-13-1603 or Section 16.00 of these rules shall be construed to require the closing of any school or school facility.

16.10 No administratively consolidated or annexed resulting or receiving school district shall have more than one (1) superintendent.

16.11 Any school district not designated as being in academic or fiscal distress for the current school year and previous two (2) school years that administratively receives by consolidation or annexation a school district designated by the State Board as being in academic or fiscal distress at the time of consolidation or annexation shall not be subject to academic or fiscal distress sanctions for a period of three (3) years from the effective date of consolidation unless:

16.11.1 The school district fails to meet minimum teacher salary requirements; or

16.11.2 The school district fails to comply with the Standards for Accreditation of Arkansas Public Schools and School Districts issued by the Department of Education.

16.12 Noncontiguous school districts may voluntarily consolidate if the facilities and physical plant of each school district:

16.12.1 Are within the same county, and the State Board approves the administrative consolidation; or

16.12.2 Are not within the same county, and the State Board approves the administrative consolidation or administrative annexation and finds that:

16.12.2.1 The administrative consolidation or administrative annexation will result in the overall improvement in the educational benefit to students in all of the school districts involved; or

16.12.2.2 The administrative consolidation or administrative annexation will provide a significant advantage in transportation costs or service to all of the school districts involved.

16.13 Contiguous school districts may administratively consolidate even if they are not in the same county.

16.14 The provisions of Ark. Code Ann. §§ 6-13-1415 through 6-13-1417, and Sections 12.00 through 14.00 of these rules, shall govern the board of directors of each resulting district or receiving district created under this Title 6, Chapter 13, Subchapter 16 and Section 16.00 of these rules.

Source: Ark. Code Ann. § 6-13-1603

17.00 DEVELOPMENT OF PLAN TO TRACK STUDENT PROGRESS

17.01 Following the administrative consolidation or administrative annexation under Ark. Code Ann. §§ 6-13-1601 -- 6-13-1603, 6-13-1604 [repealed], and 6-13-1605 [repealed] effective before December 1, 2004, and before any consolidation, annexation, detachment, approval of a conversion charter, or any other type of reclassification or reorganization of a school district after December 1, 2004, each receiving district or resulting district and the Department of Education shall develop a plan to track the educational progress of all students from the affected district and the following subgroups of those students:

PUBLIC COMMENT

- 17.01.1 Students who have been placed at risk of academic failure as required under Ark. Code Ann. § 6-15-1602;
- 17.01.2 Economically disadvantaged students;
- 17.01.3 Students from major racial and ethnic groups; and
- 17.01.4 Specific population groups as identified by the State Board, the Department of Education, the affected district, or the receiving district as target groups for closing the achievement gaps.
- 17.02 The receiving or resulting district shall obtain and retain all student records from the affected district for the five (5) years immediately preceding the administrative consolidation or administrative annexation, specifically including, but not limited to:
 - 17.02.1 Individual student records;
 - 17.02.2 Attendance records;
 - 17.02.3 Enrollment records;
 - 17.02.4 Assessment records for assessments required under the Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, Ark. Code Ann. § 6-15-401 et seq., specifically including benchmark assessments and end-of-course assessments; and
 - 17.02.5 American College Test (ACT) and Standardized Aptitude Test (SAT) results and records.
- 17.03 The school district shall report to the Department of Education information determined by the Department of Education as necessary to track the educational progress of all students from the affected district as a subgroup and the following subgroups of those transferred students:
 - 17.03.1 Students who have been placed at risk of academic failure as required under Ark. Code Ann. § 6-15-1602;
 - 17.03.2 Economically disadvantaged students; and
 - 17.03.3 Students from major racial and ethnic groups.
- 17.04 By November 1 of each year, the Department of Education shall file a written report with the Governor, the chair of the House Interim Committee on Education, the chair of the Senate Interim Committee on Education, and the secretary of the Legislative Council assessing the educational progress of all students from the

affected district as a subgroup and the following subgroups of those transferred students:

17.04.1 Students who have been placed at risk of academic failure as required under Ark. Code Ann. § 6-15-1602;

17.04.2 Economically disadvantaged students; and

17.04.3 Students from major racial and ethnic groups.

Source: Ark. Code Ann. § 6-13-1606

18.00 RETENTION OF HISTORICAL RECORDS AND DOCUMENTS

18.01 Following the annexations or consolidations under Ark. Code Ann. § 6-13-1601 et seq. effective prior to December 1, 2004, and prior to any consolidation, annexation, detachment, approval of a conversion charter, or any other type of reclassification or reorganization of a school district after December 31, 2004, a receiving or resulting school district shall obtain and retain all student and historical records and documents from the affected school district, specifically including, but not limited to:

18.01.1 Student transcripts;

18.01.2 Graduation records;

18.01.3 Minutes and other legal documents of the local board of directors;

18.01.4 Maps or boundary documents;

18.01.5 Sports records, trophies, and awards;

18.01.6 Employee records; and

18.01.7 Financial records.

Source: Ark. Code Ann. § 6-13-1607

19.00 AUDIT REQUIRED

19.01 The Division of Legislative Audit shall conduct a comprehensive financial review of all the school district's financial matters for any school that is involved in administrative consolidation or administrative annexation or is otherwise reorganized by the State Board.

19.02 The comprehensive financial review shall begin no less than ten (10) days after the earliest of:

19.02.1 The publication of the district's name on the consolidation and annexation list under Ark. Code Ann. § 6-13-1602;

19.02.2 The filing of a petition for voluntary administrative consolidation or administrative annexation; or

19.02.3 The adoption of a motion by the State Board to consolidate, annex, or otherwise reorganize a school district designated as being in academic or fiscal distress.

19.03 Beginning on the date of publication of the consolidation list under Ark. Code Ann. § 6-13-1602 and Section 16.00 of these rules each year, the Department of Education shall have authority to oversee all fiscal and accounting-related matters of all school districts on the consolidation list and shall require those school districts to have accurate records necessary to close all books within sixty (60) days after the end of the fiscal year.

19.03.1 No contract or other debt obligation incurred by a school district for which the department has oversight authority under Ark. Code Ann. § 6-13-1608 and Section 19.00 of these rules shall be valid or enforceable against a resulting school district unless the contract or other debt obligation is preapproved in writing by the Commissioner of Education or his or her designee.

19.04 Any school that is involved in an administrative consolidation or administrative annexation shall have an audit started within thirty (30) days of the completion of the closing of the books by the school district.

19.05 The Department of Education and the Division of Legislative Audit shall jointly develop the scope and details of the comprehensive fiscal review consistent with the requirements of Ark. Code Ann. § 6-13-1608 and Section 19.00 of these rules.

19.06 A school district may not incur debt without the prior written approval of the Department of Education if the school district is identified by the Department of Education under Ark. Code Ann. § 6-13-1602(1) and Section 15.01.1 of these rules as having fewer than three hundred fifty (350) students according to the school district average daily membership in the school year immediately preceding the current school year.

Source: Ark. Code Ann. § 6-13-1608

20.00 PRESERVATION OF HISTORICAL SCHOOL ARTIFACTS

20.01 Following the administrative consolidations or administrative annexations under Ark. Code Ann. §§ 6-13-1601 -- 6-13-1603, 6-13-1604 [repealed], and 6-13-1605 [repealed] effective before December 1, 2004, and before any consolidation, annexation, detachment, approval of a conversion charter, or any other type of reclassification or reorganization of a school district after December 31, 2004, a receiving district or resulting district shall obtain, retain, preserve, and, as appropriate, display historical artifacts of the affected district in the same manner as if the historical artifacts were those of the receiving district or resulting district.

Source: Ark. Code Ann. § 6-13-1609

21.00 FINANCIAL RELIEF FOR DEBTS ACQUIRED AS A RESULT OF INVOLUNTARY CONSOLIDATIONS

21.01 As used in Section 21.00 of these rules:

21.01.1 “Accounts payable” means a debt owed by a school district on June 30 immediately prior to administrative consolidation, excluding bonded indebtedness or other long-term debt;

21.01.2 “Act 60 school district” means a school district that was on the consolidation list under Ark. Code Ann. § 6-13-1602 and Section 15.00 of these rules and was involuntarily consolidated under Ark. Code Ann. § 6-13-1603(a)(3) and Section 16.03 of these rules;

21.01.3 “Available funding” means funds that are available to a school district for paying accounts payable or are reasonably expected to be collected and available for payment of accounts payable;

21.01.4 “Excess accounts payable” means accounts payable of an Act 60 school district that exceed available funding; and

21.01.5 “Improper expenditure exceptions” means an erroneous expenditure of federal or state funds that is noted as an audit exception and has been determined by the Department of Education to require an expenditure of funds by the resulting school district to be correct.

21.02 If on July 1, 2004, or thereafter, the State Board required an involuntary administrative consolidation under Ark. Code Ann. § 6-13-1603(a)(3) and Section 16.03 of these rules and the resulting district assumed excess accounts payable or improper expenditure exceptions incurred by the Act 60 school district before the July 1 administrative consolidation date that would have caused deficit spending

if paid from the funds of the Act 60 district, the Department of Education shall provide supplemental funding to the resulting district.

21.03 The amount of the supplemental funding provided under Ark. Code Ann. § 6-13-1610(b) and Section 21.02 of these rules shall be equal to the amount of the excess accounts payable and improper expenditure exceptions assumed by the resulting school district.

21.03.1 The amount of accounts payable, excess accounts payable, improper expenditure exceptions, and available funding shall be determined by the Department of Education based on information provided in a final audit and other verifiable fiscal information available to the Department of Education.

21.03.2 The audit of an Act 60 school district required under Ark. Code Ann. § 6-13-1610 and Section 21.00 of these rules shall be completed within the time under Ark. Code Ann. § 6-20-1801(d) for school districts in fiscal distress.

21.03.3 No supplemental funding shall be paid under this section until after completion of a final audit by the Division of Legislative Audit or a private certified public accountant that may conduct school district audits under Ark. Code Ann. § 6-20-1801.

21.04 Beginning on the date of the publication of the consolidation list under Ark. Code Ann. § 6-13-1602 and Section 15.00 of these rules each year, the Department of Education shall have authority to oversee all fiscal and accounting-related matters of all school districts on the consolidation list and shall require these school districts to have accurate records necessary to close all books within sixty (60) days of the end of the fiscal year.

21.04.1 No contract or other debt obligation incurred by a school district for which the Department of Education has oversight authority under Ark. Code Ann. § 6-13-1610 and Section 21.00 of these rules shall be valid or enforceable against a resulting district unless the contract or other debt obligation is preapproved in writing by the Commissioner of Education or his or her designee.

Source: Ark. Code Ann. § 6-13-1610

22.00 ANNUAL REPORTS

22.01 By October 1 of each year, the resulting district or receiving district of any school district that was administratively consolidated or administratively annexed under Ark. Code Ann. §§ 6-13-1601 -- 6-13-1603, 6-13-1604 [repealed], and 6-13-1605 [repealed] shall file a written report with the House Interim Committee on

Education, the Senate Interim Committee on Education, and the Department of Education indicating:

22.01.1 What efforts were made and the results of those efforts for inclusion of parents from the affected district in the receiving district's or the resulting district's activities, including without limitation:

22.01.1.1 Parent-teacher associations;

22.01.1.2 Booster clubs; and

22.01.1.3 Parent involvement committees;

22.01.2 The number and percentage of students from the affected districts participating in an extracurricular activity, itemized by each extracurricular activity offered by the school district and, for each activity, which school district the student attended before reorganization; and

22.01.3 The employment status of each administrator by name, gender, and race before the administrative annexation or administrative consolidation, which school employed the administrator before administrative consolidation, and his or her employment status in the receiving district or the resulting district.

22.02 The Department of Education shall develop or approve a survey to be used by the resulting or receiving districts to capture perceptual data from parents and students regarding their opinions on:

22.02.1 Opportunities for inclusion or participation in the resulting or receiving district; and

22.02.2 The efforts, if any, that were made to include parents from the affected district in the receiving or resulting district's activities, including, but not limited to, parent-teacher associations, booster clubs, and parent involvement committees.

Source: Ark. Code Ann. § 6-13-1611

23.00 ACADEMIC SUPPORT CENTERS

23.01 The purpose of Ark. Code Ann. § 6-13-1612 and Section 23.00 of these rules is to:

23.01.1 Prevent students who attend administratively consolidated or administratively annexed schools from returning home to communities with little or no opportunities for supplemental academic support;

23.01.2 Increase opportunities for access to library materials, academic resource materials, and educational technology for these students within their local communities; and

23.01.3 Help advance academic performance for these students by providing opportunities for homework and tutorial assistance based on the Arkansas curriculum frameworks.

23.02 An academic support center may be established in communities whose schools have been closed by administrative consolidation or administrative annexation under Title 6, Chapter 13, Subchapter 16 of the Arkansas Code to fulfill the objectives identified in Ark. Code Ann. § 6-13-1612(a) and Section 23.00 of these rules.

23.03 The Department of Education shall report annually to the House Interim Committee on Education and the Senate Interim Committee on Education regarding the establishment of academic support centers and their effectiveness.

Source: Ark. Code Ann. § 6-13-1612

CONSOLIDATION AND ANNEXATION INCENTIVE FUNDING

24.00 DEFINITIONS APPLICABLE TO CONSOLIDATION AND ANNEXATION INCENTIVE FUNDING

For the purposes of Sections 24.00 through 26.00 of these rules, the following definitions apply:

24.01 “Annexation” includes both Annexation and Administrative Annexation as defined in Section 3.00 of these Rules.

24.02 “Consolidation” includes both Consolidation and Administrative Consolidation as defined in Section 3.00 of these Rules.

24.03 “Foundation Funding” means an amount of money specified by the General Assembly for each school year to be expended by school districts for the provision of an adequate education for each student.

24.04 “Per Student Foundation Funding Amount” means a dollar amount established by the General Assembly to be multiplied by the ADM of the previous school year for the district foundation funding.

24.05 “Funding Factor” means a factor established by the Arkansas Department of Education (Department) to ensure that the calculated funding does not exceed the funds available for consolidation/annexation incentive funding.

25.00 GUIDELINES FOR THE DISTRIBUTION OF CONSOLIDATION AND ANNEXATION INCENTIVE FUNDING

25.01 The distribution of consolidation and annexation incentive funding is dependent upon appropriation and funding by the Arkansas General Assembly.

25.02 Consolidation/annexation incentive funding shall be determined as follows:

25.02.1 One hundred percent (100%) of the incentive allowance computed as provided in these rules shall be in addition to the school district’s aid the first year of consolidation/annexation. The second year of consolidation/annexation the district shall receive fifty percent (50%) of the consolidation/annexation incentive funding received by the district in the previous year in addition to other state aid. Beginning in the third year and each year thereafter no consolidation/annexation incentive funding shall be provided. The consolidation/annexation incentive is intended to supplement the customary state aid the districts would have received had the consolidation/annexation not occurred.

25.02.2 For those school districts not required to be consolidated/annexed in the current school year, if two (2) districts consolidate or one (1) district is annexed to another school district, multiply the prior year ADM of the smaller district by the per student foundation funding amount, then by the funding factor, where the minimum ADM applicable is one hundred (100) and the maximum ADM applicable is three hundred (300).

25.02.3 For those school districts required to be consolidated/annexed in the current school year, if two (2) districts consolidate or one (1) district is annexed to another school district, multiply the prior year ADM of the smaller district by the per student foundation funding amount, then by the funding factor, where the minimum ADM

applicable is one hundred (100) and the maximum ADM applicable three hundred (300).

25.02.4 For those school districts not required to be consolidated/annexed in the current school year, if three (3) districts consolidate or two (2) districts are annexed to a third school district, multiply the total prior year ADM of the two (2) smaller districts by the per student foundation funding amount, then by the funding factor, where the minimum ADM applicable is one hundred (100) and the maximum ADM applicable is four hundred (400).

25.02.5 For those school districts required to be consolidated/annexed in the current school year, if three (3) districts consolidate or two (2) smaller districts are annexed to another school district, multiply the prior year ADM of the smaller district by the per student foundation funding amount, then by the funding factor, where the minimum ADM applicable is one hundred (100) and the maximum ADM applicable three hundred (300).

25.02.6 For those school districts not required to be consolidated/annexed in the current school year, if four (4) or more districts consolidate or three (3) or more districts are annexed to another school district, multiply the total prior year ADM of all except the largest district by the per student foundation funding amount, then by the funding factor, where the minimum ADM applicable is one hundred (100) and the maximum ADM applicable is five hundred (500).

25.02.7 For those school districts required to be consolidated/annexed in the current school year, if four (4) or more districts consolidate or three (3) or more districts are annexed to another school district, multiply the prior year ADM of the smaller district by per student the foundation funding amount, then by the funding factor, where the minimum ADM applicable is one hundred (100) and the maximum ADM applicable is three hundred (300).

25.02.8 If a district is annexed by multiple school districts, the incentive funding shall be computed as in Sections 25.02.1 through 25.02.7 above. The incentive funding shall then be prorated among the receiving districts based upon the percentage of the annexed district's ADM received by each receiving district.

26.00 GENERAL REQUIREMENTS

26.01 Consolidation/annexation incentive funding shall be distributed to either the resulting district(s) established after consolidation or the receiving district(s) after annexation.

26.02 Any district that has received consolidation/annexation incentive funds and subsequently dissolves shall be liable to the Department of Education for the full or apportioned amount of incentive funding received if any of the following conditions result due to the dissolution:

26.02.1 Districts are formed with substantially the same boundaries as the former districts prior to consolidation or annexation;

26.02.2 The ability of any district to desegregate or remain desegregated is inhibited;

26.02.3 The ability of the State to ensure that students are provided a quality education in an efficient manner is inhibited.

26.03 Any repayment due, as required in Section 26.02 above, shall be paid from the assets of the district prior to dissolution of the district. The Department of Education may withhold, from any state funding due the district, the amount of repayment funds or a portion thereof.

26.04 In the event full repayment is not made as required under Section 26.02 above, the Department of Education shall withhold from those districts that are formed as a result of the dissolution, future state funding in the amount of the repayment owed. The repayment shall be apportioned among the districts on a per ADM basis unless the Department of Education determines that such apportionment would be inequitable. In such case, the State Board shall apportion the repayment among the districts upon an equitable basis.

27.00 STATE BOARD HEARING PROCEDURES – VOLUNTARY CONSOLIDATIONS AND ANNEXATIONS

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

27.02 The spokesperson(s) for the petitioning school districts shall have a total of twenty (20) minutes to present the school districts' remarks. The State Board may allow more than twenty (20) minutes if necessary.

27.03 The spokesperson(s) for any individual or group of citizens that opposes the petition shall have a total of twenty (20) minutes to present the remarks of the individual or group of citizens. The State Board may allow more than twenty (20) minutes if necessary.

27.04 The spokesperson(s) for the petitioning school districts shall have a total of ten (10) minutes to present closing remarks to the State Board. The State Board may allow more than ten (10) minutes if necessary.

27.05 The spokesperson(s) for any individual or group of citizens that opposes the petition shall have a total of ten (10) minutes to present closing remarks to the State Board. The State Board may allow more than ten (10) minutes if necessary.

27.06 The State Board shall then discuss, deliberate and vote upon the matter of approving or denying the school districts' petition.

27.07 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 in a public hearing.

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

28.00 STATE BOARD HEARING PROCEDURES – INVOLUNTARY CONSOLIDATIONS AND ANNEXATIONS

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

28.02 The spokesperson(s) for the Department of Education shall have a total of twenty (20) minutes to present the Department of Education's remarks. The State Board may allow more than twenty (20) minutes if necessary.

28.03 The spokesperson(s) for any individual or group of citizens that opposes the annexation or consolidation shall have a total of twenty (20) minutes to present the remarks of the individual or group of citizens. The State Board may allow more than twenty (20) minutes if necessary.

28.04 The spokesperson(s) for the Department of Education shall have a total of ten (10) minutes to present closing remarks to the State Board. The State Board may allow more than ten (10) minutes if necessary.

28.05 The spokesperson(s) for any individual or group of citizens that opposes the annexation or consolidation shall have a total of ten (10) minutes to present closing remarks to the State Board. The State Board may allow more than ten (10) minutes if necessary.

28.06 The State Board shall then discuss, deliberate and vote upon the matter of approving or denying the school districts' petition.

PUBLIC COMMENT

28.07 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 in a public hearing.

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

**ATTACHMENTS PERTAINING TO ANNEXATIONS AND CONSOLIDATIONS OF
SCHOOL DISTRICTS (NON-ADMINISTRATIVE)**

BEFORE THE ARKANSAS STATE BOARD OF EDUCATION

IN THE MATTER OF THE ANNEXATION OF _____ SCHOOL
DISTRICT(S) OF _____ COUNTY INTO THE _____ SCHOOL
DISTRICT OF _____ COUNTY:

PETITION FOR ANNEXATION

COMES NOW the _____ School District(s) of _____ County and
the _____ School District of _____ County (Petitioners), acting by and
through their respective Superintendent(s) duly authorized, pursuant to Ark. Code Ann. § 6-13-
1401 et seq., and petition the Arkansas State Board of Education (Board) to approve the
annexation of the petitioning affected school district(s) into the petitioning receiving
_____ School District, and hereby would submit to the Board as follows:

1. Pursuant to Ark. Code Ann. § 6-13-1401 et seq., the Petitioners hereby submit
and incorporate in this petition as Exhibit A attached hereto, proof of legally binding local board
resolutions to annex the _____ School District(s) into the receiving _____ School
District as approved by a majority of the members of the local boards of education of the
respective Petitioners.

2. The Petitioners hereby submit and incorporate in this petition as Exhibit B
attached hereto, proof of public notice of intent to petition this Board to annex the Petitioners
into the receiving _____ School District. Said public notice of intent to annex
(was)(was not) published in the local newspaper(s) of general circulation (or in a state newspaper
of daily circulation if local newspaper does not exist on weekly basis) of the affected districts for
a time period of no less than once a week for two (2) consecutive weeks immediately prior to the
filing of this petition with this Board.

PUBLIC COMMENT

3. The Petitioners submit that at the proper school election following the petitioned annexation, the receiving _____ School District shall elect _____ local board members in compliance with Ark Code Ann. §§ 6-13-1416 and 6-13-1417.

4. The Petitioners submit that their respective school districts are geographically contiguous or that the Board should approve the petitioned non-contiguous annexation because the annexation will result in (a) the overall improvement in the educational benefit to students in all of the school districts involved, or (b) will provide a significant advantage in transportation costs or service to all of the school districts involved based on the following factual reasons:

5. The Petitioners submit that they hereby request through the State Board, an Attorney General Opinion declaring whether the petitioned annexation will or will not hamper, delay or in any manner negatively affect the desegregation of another school district or districts in this state. Upon receipt, the resulting opinion shall be incorporated herein and attached hereto as Exhibit C.

6. Pursuant to Ark. Code Ann. § 6-13-1401 et seq., the Petitioners hereby submit and declare that the effective date of this petitioned annexation shall be July 1, and that there shall be only one local school board and one local superintendent of the receiving _____ School District.

PUBLIC COMMENT

7. The Petitioners hereby submit an affidavit of facts by the superintendent of the affected school district(s), which is incorporated as Exhibit D, concerning the relevant status of any federal court-ordered supervision or jurisdiction of desegregation cases involving the affected districts.

8. The Petitioners hereby submit and incorporate in this petition as Exhibit E attached hereto, the written agreement required by Ark. Code Ann. § 6-13-1416.

WHEREFORE, Petitioners request that the Board approve the annexation of the _____ School District(s) of _____ County into the receiving _____ School District of _____ County; that it issue an Order dissolving the affected school district(s) and establishing the receiving _____ School District; that it issue an Order establishing the boundary lines of the receiving school district; and that it file its Order with the County Clerks of _____ and _____ Counties, Arkansas, with the Secretary of State and with the Arkansas Geographic Information Office.

Respectfully submitted,

School District

County

By: _____
Superintendent Date

President, School Board Date

School District

County

PUBLIC COMMENT

By: _____

Superintendent Date

President, School Board Date

BEFORE THE ARKANSAS STATE BOARD OF EDUCATION

IN THE MATTER OF THE CONSOLIDATION OF SCHOOL
DISTRICT(S) OF COUNTY AND THE SCHOOL
DISTRICT OF COUNTY:

PETITION FOR CONSOLIDATION

COMES NOW the _____ School District(s) of _____ County and
the _____ School District of _____ County (Petitioners), acting by and
through their respective Superintendent(s) duly authorized, pursuant to Ark. Code Ann. § 6-13-
1401 et seq., and petition the Arkansas State Board of Education (Board) to approve the
consolidation of the Petitioners into the resulting _____ School District, and hereby
would submit to the Board as follows:

1. Pursuant to Ark. Code Ann. § 6-13-1401 et seq., the Petitioners hereby submit
and incorporate in this petition as Exhibit A attached hereto, proof of legally binding local board
resolutions to consolidate the _____ and _____ School District(s) into the
resulting _____ School District as approved by a majority of the members of the local
boards of education of the respective Petitioners.

2. The Petitioners hereby submit and incorporate in this petition as Exhibit B
attached hereto, proof of public notice of intent to petition this Board to consolidate the
Petitioners into the resulting _____ School District. Said public notice of intent to
consolidate (was)(was not) published in the local newspaper(s) of general circulation (or in state
newspaper of local daily circulation if local newspaper does not exist on weekly basis) of the

PUBLIC COMMENT

affected districts for a time period of no less than once a week for two (2) consecutive weeks immediately prior to the filing of this petition with this Board.

3. The Petitioners submit that at the proper school election following the petitioned consolidation, the resulting _____ School District shall elect _____ local board members in compliance with Ark. Code Ann. §§ 6-13-1416 and 6-13-1417.

4. The Petitioners submit that their respective school districts are geographically contiguous or that the Board should approve the petitioned non-contiguous consolidation because the consolidation will result in (a) the overall improvement in the educational benefits to students in all of the school districts involved, or (b) will provide a significant advantage in transportation costs or service to all of the school districts involved based on the following factual reasons:

5. The Petitioners submit that they hereby request through the State Board, an Attorney General Opinion declaring whether the petitioned consolidation will or will not hamper, delay or in any manner negatively affect the desegregation of another school district or districts in this state. Upon receipt, the resulting opinion shall be incorporated herein and attached hereto as Exhibit C.

6. Pursuant to Ark. Code Ann. § 6-13-1401 et seq., the Petitioners hereby submit and declare that the effective date of this petitioned consolidation shall be July 1, and that there

PUBLIC COMMENT

shall be only one local school board and one local superintendent of the resulting
_____ School District.

7. _____ The Petitioners hereby submit an affidavit of facts by the superintendent of the
affected school districts, which is incorporated as Exhibit D, concerning the relevant status of
any federal court-ordered supervision or jurisdiction of desegregation cases involving the
affected districts.

8. _____ The Petitioners hereby submit and incorporate in this petition as Exhibit E
attached hereto, the written agreement required by Ark. Code Ann. § 6-13-1416.

WHEREFORE, Petitioners request that the Board approve the consolidation of the
_____ School District(s) of _____ County and the _____ School District
of _____ County into the resulting _____ School District; that it issue an Order
dissolving the affected school districts and establishing the resulting school district; that it issue
an Order establishing the boundary lines of the resulting school district; and that it file its Order
with the County Clerks of the _____ and _____ Counties, Arkansas,
with the Secretary of State and with the Arkansas Geographic Information Office.

Respectfully submitted,

_____ School District

_____ County

By: _____
Superintendent Date

President, School Board Date

PUBLIC COMMENT

_____ School District

_____ County

By: _____
Superintendent Date

President, School Board Date

Exhibit A

SCHOOL BOARD RESOLUTION

COMES NOW the _____ School District Board acting by and through its Superintendent duly authorized and do herein declare:

A special or regular school board meeting was held on _____, 20____, wherein a quorum was present and a majority of the board membership voted to approve the consolidation/annexation of the _____ School District with the _____ School District, and the minutes of said meeting reflect such.

Therefore, this document is to serve as the formal resolution of the _____ School District Board of Directors, pursuant to Arkansas law, that said consolidation/annexation is hereby approved.

_____ School District

of _____ County

By: _____
Superintendent Date

By: _____
President, School Board Date

EXHIBIT D

AFFIDAVIT CONCERNING DESEGREGATION ORDERS

COMES NOW the _____ School District, acting by and through its Superintendent, and hereby states and represents to the State Board of Education that, to the best of my knowledge, the _____ School District currently (circle one) (is)(is not) involved in desegregation litigation in a United States Federal Court or is under the continuing jurisdiction of a United States Federal Court Order regarding desegregation of a public school or schools (see "*" at bottom of affidavit).

Further the affiant sayeth not.

IN WITNESS WHEREOF, I hereunto set my hand this _____ day of _____, 20_____.

Superintendent

PUBLIC COMMENT

COUNTY of _____
STATE OF ARKANSAS

Sworn and subscribed before me, Notary Public, this _____ day of _____, 20_____.

Notary Public

My Commission expires:

* = If you answered, "is involved in desegregation litigation, etc." above, please attach a copy of any applicable Court orders or other relevant documentation.

**ATTACHMENTS PERTAINING TO ADMINISTRATIVE ANNEXATIONS AND
CONSOLIDATIONS OF SCHOOL DISTRICTS**

BEFORE THE ARKANSAS STATE BOARD OF EDUCATION

IN THE MATTER OF THE ANNEXATION OF _____ SCHOOL
DISTRICT(S) OF _____ COUNTY INTO THE _____ SCHOOL
DISTRICT OF _____ COUNTY:

PETITION FOR VOLUNTARY ADMINISTRATIVE ANNEXATION

COMES NOW the _____ School District(s) of _____ County and
the _____ School District of _____ County (Petitioners), acting by and
through their respective Superintendent(s) duly authorized, pursuant to Ark. Code Ann. § 6-13-
1601 et seq., and petition the Arkansas State Board of Education (Board) to approve the
voluntary administrative annexation of the petitioning affected school district(s) into the
petitioning receiving _____ School District, and hereby would submit to the Board as
follows:

1. Pursuant to Ark. Code Ann. § 6-13-1601 et seq., the Petitioners hereby submit
and incorporate in this petition as Exhibit A attached hereto, proof of legally binding local board
resolutions to annex the _____ School District(s) into the receiving _____ School
District as approved by a majority of the members of the local boards of education of the
respective Petitioners.

2. The Petitioners hereby submit and incorporate in this petition as Exhibit B
attached hereto, (submit only if public notice was published in the newspaper) proof of public
notice of intent to petition this Board to annex the Petitioners into the receiving _____
School District. Said public notice of intent to annex (was)(was not) published in the local
newspaper(s) of general circulation (or in a state newspaper of daily circulation if local
newspaper does not exist on weekly basis) of the affected districts for a time period of no less

PUBLIC COMMENT

than once a week for two (2) consecutive weeks immediately prior to the filing of this petition with this Board.

3. The Petitioners submit that the average daily membership in each of the two (2) school years immediately preceding the _____ school year were _____ and _____ for the _____ School District and _____ and _____ for the _____ School District.

4. Pursuant to Ark. Code Ann. § 6-13-1603(b), the Petitioners submit and incorporate an affidavit of proof as Exhibit C that the previous average daily membership of the affected school districts was a combined average daily membership of _____ for the _____ school year, which is an average daily membership meeting or exceeding three hundred fifty (350) total students.

5. The Petitioners submit that at the proper school election following the petitioned annexation, the receiving _____ School District shall elect _____ local board members in compliance with Ark. Code Ann. §§ 6-13-1416 and 6-13-1417.

6. The Petitioners submit that their respective school districts are geographically contiguous or that the Board should approve the petitioned non-contiguous annexation because the annexation will result in (a) the overall improvement in the educational benefit to students in all of the school districts involved, or (b) will provide a significant advantage in transportation costs or service to all of the school districts involved based on the following factual reasons:

PUBLIC COMMENT

7. The Petitioners submit that they hereby request through the State Board, an Attorney General Opinion declaring whether the petitioned annexation will or will not hamper, delay or in any manner negatively affect the desegregation of another school district or districts in this state. Upon receipt, the resulting opinion shall be incorporated herein and attached hereto as Exhibit D.

8. Pursuant to Ark. Code Ann. § 6-13-1601 et seq., the Petitioners hereby submit and declare that the effective date of this petitioned annexation shall be July 1, _____, and that there shall be only one local school board and one local superintendent of the receiving _____ School District.

9. If Petitioners are claiming Isolated School status, Petitioners hereby submit that the _____ School District(s) qualify as an isolated school as certified by the attached affidavit of Isolated School Status incorporated in this petition as Exhibit E attached hereto.

10. The Petitioners hereby submit an affidavit of facts by the superintendent of the affected school district(s), which is incorporated as Exhibit F, concerning the relevant status of any federal court-ordered supervision or jurisdiction of desegregation cases involving the affected districts.

11. The Petitioners hereby submit and incorporate in this petition as Exhibit G attached hereto, the written agreement required by Ark. Code Ann. § 6-13-1416.

WHEREFORE, Petitioners request that the Board approve the annexation of the _____ School District(s) of _____ County into the receiving _____ School District of _____ County; that it issue an Order dissolving the affected school district(s) and establishing the receiving _____ School District; that it issue an Order establishing the boundary lines of the receiving school district; and that it file its

BEFORE THE ARKANSAS STATE BOARD OF EDUCATION

IN THE MATTER OF THE CONSOLIDATION OF _____ SCHOOL
DISTRICT(S) OF _____ COUNTY AND THE _____ SCHOOL
DISTRICT OF _____ COUNTY:

PETITION FOR VOLUNTARY ADMINISTRATIVE CONSOLIDATION

COMES NOW the _____ School District(s) of _____ County and
the _____ School District of _____ County (Petitioners), acting by and
through their respective Superintendent(s) duly authorized, pursuant to Ark. Code Ann. § 6-13-
1601 et seq., and petition the Arkansas State Board of Education (Board) to approve the
voluntary administrative consolidation of the Petitioners into the resulting _____
School District, and hereby would submit to the Board as follows:

1. Pursuant to Ark. Code Ann. § 6-13-1601 et seq., the Petitioners hereby submit
and incorporate in this petition as Exhibit A attached hereto, proof of legally binding local board
resolutions to consolidate the _____ and _____ School District(s) into the
resulting _____ School District as approved by a majority of the members of the local
boards of education of the respective Petitioners.

2. The Petitioners hereby submit and incorporate in this petition as Exhibit B
attached hereto, (submit only if public notice was published in the newspaper) proof of public
notice of intent to petition this Board to consolidate the Petitioners into the resulting
_____ School District. Said public notice of intent to consolidate (was)(was not)
published in the local newspaper(s) of general circulation (or in state newspaper of local daily
circulation if local newspaper does not exist on weekly basis) of the affected districts for a time
period of no less than once a week for two (2) consecutive weeks immediately prior to the filing
of this petition with this Board.

PUBLIC COMMENT

3. The Petitioners submit that the average daily membership in each of the two (2) school years immediately preceding the _____ school year were _____ and _____ for the _____ School District and _____ and _____ for the _____ School District.

4. Pursuant to Ark. Code Ann. § 6-13-1603(b), the Petitioners submit and incorporate an affidavit of proof as Exhibit C that the previous average daily membership of the affected school districts was a combined average daily membership of _____ for the _____ school year, which is an average daily membership meeting or exceeding three hundred fifty (350) total students.

5. Pursuant to Ark. Code Ann. § 6-13-1416, the Petitioners submit that this petitioned consolidation is pursuant to Ark. Code Ann. § 6-13-1602 and that an interim local board of seven (7) board members in accord with Ark. Code Ann. § 6-13-1416 shall be established by _____, and the interim board shall be made up of board members of the affected former districts in proportion to the student's population in the former affected districts.

6. The Petitioners submit that at the first regular school election following the petitioned consolidation, the resulting _____ School District shall elect _____ local board members by zoned elections in compliance with Ark. Code Ann. §§ 6-13-1416 and 6-13-1417.

7. The Petitioners submit that their respective school districts are geographically contiguous or that the Board should approve the petitioned non-contiguous consolidation because the consolidation will result in (a) the overall improvement in the educational benefits to students in all of the school districts involved, or (b) will provide a significant advantage in transportation costs or service to all of the school districts involved based on the following factual reasons:

8. The Petitioners submit that they hereby request through the State Board, an Attorney General Opinion declaring whether the petitioned consolidation will or will not hamper, delay or in any manner negatively affect the desegregation of another school district or districts in this state. Upon receipt, the resulting opinion shall be incorporated herein and attached hereto as Exhibit D.

9. Pursuant to Ark. Code Ann. § 6-13-1601 et seq., the Petitioners hereby submit and declare that the effective date of this petitioned consolidation shall be July 1, _____, and that there shall be only one local school board and one local superintendent of the resulting _____ School District.

10. If Petitioners are claiming Isolated School status, Petitioners hereby submit that the _____ School District(s) qualify as isolated schools as certified by the attached affidavit of Isolated School Status incorporated in this petition as Exhibit E attached hereto.

11. The Petitioners hereby submit an affidavit of facts by the superintendent of the affected school district, which is incorporated as Exhibit F, concerning the relevant status of any federal court-ordered supervision or jurisdiction of desegregation cases involving the affected districts.

12. The Petitioners hereby submit and incorporate in this petition as Exhibit G attached hereto, the written agreement required by Ark. Code Ann. § 6-13-1416.

PUBLIC COMMENT

WHEREFORE, Petitioners request that the Board approve the consolidation of the
_____ School District(s) of _____ County and the _____ School District
of _____ County into the resulting _____ School District; that it issue an Order
dissolving the affected school districts and establishing the resulting school district; that it issue
an Order establishing the boundary lines of the resulting school district; and that it file its Order
with the County Clerks of the _____ and _____ Counties, Arkansas,
the Secretary of State and the Arkansas Geographic Information Office.

Respectfully submitted,

School District

County

By: _____
Superintendent Date

President, School Board Date

School District

County

By: _____
Superintendent Date

President, School Board Date

Exhibit A

SCHOOL BOARD RESOLUTION

COMES NOW the _____ School District Board acting by and through its
Superintendent duly authorized and do herein declare:

A special or regular school board meeting was held on _____,
_____, wherein a quorum was present and a majority of the membership voted to approve
the consolidation/annexation of the _____ School District with the
_____ School District, and the minutes of said meeting reflect such.

Therefore, this document is to serve as the formal resolution of the _____ School
District Board of Directors, pursuant to Arkansas law, that said consolidation/annexation is
hereby approved.

_____ School District
of _____ County

By: _____
Superintendent Date

By: _____
President, School Board Date

Exhibit C

AFFIDAVIT OF AVERAGE DAILY MEMBERSHIP

COMES NOW the affiant, _____, Superintendent of the
_____ School District, and having been duly sworn, states under oath as
follows:

1. The average daily membership (ADM) of the _____ School
District, as that term is defined in Ark. Code Ann. § 6-13-1601(4), was _____ students
for the _____ school year and _____ students for the _____ school year.

2. The combined average daily membership of the affected school districts was
_____ for the _____ school year, an average daily membership meeting or exceeding
three hundred fifty (350) total students.

FURTHER, affiant says not.

IN WITNESS WHEREOF, I hereunto set my hand this _____ day of

_____.

Superintendent

PUBLIC COMMENT

County of _____
State of Arkansas

Sworn and subscribed before me, Notary Public, this _____ day of
_____.

Notary Public

My Commission expires:

Exhibit E

AFFIDAVIT OF ISOLATED SCHOOL STATUS

Comes the affiant, _____, Superintendent of the _____ School

District, and having been duly sworn, states under oath as follows:

1. My name is _____ . I am the Superintendent of the

_____ School District.

2. My business address is _____.

3. I am aware that pursuant to Ark. Code Ann. § 6-20-601 a school district must meet four (4) of five (5) criteria to qualify as an isolated school.

4. I am aware that pursuant to Ark. Code Ann. § 6-20-602 an isolated school must qualify as an isolated school district under Ark. Code Ann. § 6-20-601 prior to the administrative consolidation or annexation petitioned for herein.

5. I hereby submit that prior to the effective date of the administrative consolidation or annexation, the _____ School District qualified as an isolated school district and, therefore, is entitled to the rights and privileges conferred on an isolated school pursuant to Ark. Code Ann. § 6-20-602.

6. I hereby declare that the _____ School District qualifies for isolated status because the school district meets the following list of at least four (4) of the five (5) criteria of being an isolated school district: *(circle appropriate responses and provide relevant data in the blanks)*

a. There is a distance of twelve (12) miles or more by hard-surfaced highway from the high school of the district to the nearest adjacent high school in an adjoining district. The distance is _____.

b. The density ratio of transported students is less than three (3) students per square mile of area. The density ratio is _____.

c. The total area of the district is ninety-five (95) square miles or greater. The total area is _____ square miles.

d. Less than fifty percent (50%) of bus route miles are on hard-surfaced roads. The percent of bus route miles on hard-surface roads is _____.

e. There are geographic barriers such as lakes, rivers, and mountain ranges which would impede travel to schools that otherwise would be appropriate for consolidation, cooperative programs, and shared services. The geographic barriers are _____.

7. Further the affiant sayeth not.

IN WITNESS WHEREOF, I hereunto set my hand this _____ day of

_____.

Superintendent

COUNTY OF _____
STATE OF ARKANSAS

Sworn and subscribed before me, Notary Public, this _____ day
of _____.

Notary Public

My Commission expires:

EXHIBIT F

AFFIDAVIT CONCERNING DESEGREGATION ORDERS

COMES NOW the _____ School District, acting by and through its Superintendent, and hereby states and represents to the State Board of Education that, to the best of my knowledge, the _____ School District currently (circle one) (is)(is not) involved in desegregation litigation in a United States Federal Court or is under the continuing jurisdiction of a United States Federal Court Order regarding desegregation of a public school or schools (see "*" at bottom of affidavit).

Further the affiant sayeth not.

IN WITNESS WHEREOF, I hereunto set my hand this _____ day of _____,
_____.

Superintendent

COUNTY of _____
STATE OF ARKANSAS

Sworn and subscribed before me, Notary Public, this _____ day of _____,
_____.

Notary Public

My Commission expires:

* = If you answered, "is involved in desegregation litigation, etc." above, please attach a copy of any applicable Court orders or other relevant documentation.

Public Comment Matrix – ADE Rules Governing the Consolidation and Annexation of School Districts

Date	Respondent	Comment	ADE Response
June 15, 2012	Mary Cameron, Bureau of Legislative Research	In Rules 25.02.3, 25.02.5 and 25.02.7, “current year” has been exchanged with “prior year”. What is the reason/authority for the change?	<p>Comment considered. Those subsections of the rule pertain to consolidation/annexation incentive funding. Our authority for writing rules in this area comes from special language contained in the ADE appropriation bill. The most recent special language provision is Section 11 of Act 269 of the 2012 Fiscal Session.</p> <p>The revisions are necessary because there is no “current year” ADM for a district that has been annexed or consolidated the previous year.</p>
June 20, 2012	Tripp Walter, Arkansas Public School Resource Center	Might it not be better to have the Petitioner close last in Section 27 and the ADE close last in Section 28?	Comment considered. The objective of these provisions is to ensure that both proponents and opponents of a consolidation or annexation have equal time to make their arguments to the State Board. For this reason, they are better left in the order proposed, to treat all parties fairly.

ARKANSAS DEPARTMENT OF EDUCATION RULES GOVERNING THE ARKANSAS BETTER CHANCE PROGRAM

SECTION 1 – REGULATORY AUTHORITY

- 1.01 These rules are enacted pursuant to the authority of the State Board of Education under ACA Ark. Code Ann. § 6-11-105 and 6-45-101 et seq. as amended.
- 1.02 The Division of Child Care and Early Childhood Education (DCCECE), Arkansas Department of Human Services, shall coordinate and administer the Arkansas Better Chance Program, providing all appropriate technical assistance and program monitoring necessary to fulfill the requirements of Ark. Code Ann. § 6-45-101 et seq., 20-78-206 and 6-11-105. DCCECE will annually provide the State Board of Education a list of grants which are recommended for funding for the next year.
- 1.03 The State Board of Education will approve all rules developed pursuant to Act 212 of 1991 and Act 49 of 2003 as amended and will approve all programs funded under the Arkansas Better Chance Program.

SECTION 2 – PURPOSE

- 2.01 It is the purpose of these rules to set the general guidelines for the operation of early childhood programs funded under the Arkansas Better Chance Program and the Arkansas Better Chance for School Success Program.

SECTION 3 – DEFINITIONS

- 3.01 ABC: Arkansas Better Chance
- 3.02 ABCSS (Arkansas Better Chance for School Success): Unless standards for ABC and ABCSS are listed separately, the term 'ABC' will be used to refer to all participating programs.
- 3.03 ADE: Arkansas Department of Education
- 3.04 AECPPDS: Arkansas Early Childhood Professional Development System
- 3.05 APSCN: Arkansas Public School Computer Network
- 3.06 Agency: For purposes of these rules, "Agency" refers to any entity funded under the Arkansas Better Chance or Arkansas Better Chance for School Success program.
- 3.07 CACFP: Child and Adult Care Food Program (Special Nutrition). A federally-funded subsidy program administered by DCCECE designed to provide reimbursement to providers for meals and snacks served to children from low-income families.
- 3.08 CCFH: Child Care Family Home
- 3.09 CDA: Child Development Associate

- 3.10 Classroom: A physical space which is partitioned for the purpose of ABC instruction and activities. Each classroom must meet licensing requirements and state Quality Approval standards.
- 3.11 COPA: Child Outcome, Planning and Assessment. A web-based information technology system used to capture and maintain data for all children and families enrolled in ABC.
- 3.12 Core Quality Components: The six key areas of ABC which include:
 - Low student to teacher ratio
 - Well-qualified and compensated staff
 - Professional development
 - Developmental Screening and Child Assessment
 - Proven curricula and learning processes
 - Meaningful parent and community engagement activities

These components serve as the basis of ABC funding levels.

- 3.13 DCCECE: Division of Child Care and Early Childhood Education
- 3.14 DECA: Deveraux Early Childhood Assessment
- 3.15 DHS: Arkansas Department of Human Services
- 3.16 ECERS-R (Early Childhood Environmental Rating Scale, Revised): A nationally-recognized scale developed to measure various elements of classroom quality. ECERS-R is used to measure the environmental quality of early childhood programs.
- 3.17 ERS (Environmental Rating Scale): The term used to describe the tools used to measure elements of classroom quality. These include the Early Childhood Environmental Rating Scale, Infant-Toddler Rating Scale, Family Child Care Rating Scale and School-Age Care Rating Scale.
- 3.18 FPL: Federal Poverty Level
- 3.19 IEP: Individualized Education Program
- 3.20 IDEA: Individuals with Disabilities Education Act
- 3.21 INDEX: Investigating, Discovering and Exploring, the state-approved curriculum training on Math and Science for Young Children.
- 3.22 In-kind services: Support services provided at either no cost or without monetary exchange. To use in-kind services as match, services must be provided to the ABC program.
- 3.23 HIPPY: Home Instruction for Parents of Preschool Youngsters
- 3.24 LEA: Local Education Agency
- 3.25 NAEYC: National Association for the Education of Young Children
- 3.26 PAT: Parents as Teachers
- 3.27 Single-Site Classroom: One ABC classroom at a geographic location
- 3.28 Multi-classroom Site: Multiple ABC classrooms located on the same premises
- 3.29 SSN: Social Security Number

- 3.30 Shall: Mandatory standard
- 3.31 Should: Standard is recommended but not mandatory
- 3.32 SQP: Staff Qualifications Plan. A process by which DCCECE can approve staff not meeting minimum qualifications to work in an ABC classroom under certain restrictions.
- 3.33 Work Sampling System (WSS): A web-based instrument used by ABC programs to assess a child's progress in various educational domains over the program year.

SECTION 4 – CHILD ELIGIBILITY

- 4.01 The ABC Program serves educationally deprived children, ages birth through 5 years, excluding a kindergarten program. The Arkansas Better Chance for School Success Program serves children ages 3 and 4 years from families with gross income not exceeding 200% of the FPL. Programs wishing to enroll a kindergarten-eligible child must obtain a written waiver from DCCECE before enrolling the child in ABC. Parents must also complete a kindergarten waiver process through the local school district.
- 4.02 To be eligible, children shall reside within the boundaries of an Arkansas school district. Programs may accept children outside of their local area if they have exhausted local recruiting efforts and have unfilled ABC slots.
- 4.03 Eligible children for the ABC program shall have at least one of the following characteristics:

<ul style="list-style-type: none"> -Family with gross income not exceeding exceeding 200% of FPL -Parents without a high school diploma or GED -Low birth weight (below 5 pounds, 9 ounces) -Parent is under 18 years of age at child's birth -Immediate family member has a history of substance abuse/addiction 	<ul style="list-style-type: none"> -Has a demonstrable developmental delay as identified through screening -Eligible for services under IDEA -Income eligible for Title I programs -Limited English Proficiency -Parent has history of abuse of neglect Or is a victim of abuse or neglect
--	---
- 4.04 Eligible children for the ABC for School Success program must meet the following qualifications:

<ul style="list-style-type: none"> -Must be three or four years old by ADE cutoff date. -Gross family income ≤ 200% of FPL 	<ul style="list-style-type: none"> -A program is available in the area where the child resides and there is available space for the child to attend.
--	---

To receive special education services a child must reside within certain district/co-op boundary lines.
- 4.05 To enroll an eligible child, the child's parent or guardian shall furnish documentation of eligibility and other required information, including household income and household member information. A list of all acceptable documentation will be published annually by DCCECE. Children of parents or guardians refusing to furnish required information shall be deemed ineligible for participation. Programs are responsible for verifying eligibility before the child attends and shall maintain copies of eligibility documentation in the child's record.

- 4.06 A copy of the child's birth certificate or hospital record listing a date of birth is required. If official documentation of date of birth is unavailable, the ABC program shall follow the guidelines of the local district in such instances.
- 4.07 In determining income eligibility, programs shall use a family's gross income from employment plus any unemployment compensation. Documentation of income eligibility must be present in each child's record. If pay stubs are used to document eligibility, recent documents (dated within 30 days) shall be used. DCCECE shall publish a list of acceptable documentation annually. If a three-year old child has been qualified for ABCSS, that child shall remain eligible for two years.
- 4.08 Families claiming no earned income (full-time students or unemployed) shall produce a signed and notarized statement to that effect, which shall be maintained in the child record.
- 4.09 Parents or guardians shown to have submitted a falsified document shall be subject to repayment of funds to DCCECE and referral for prosecution.
- 4.10 Agencies shown to have enrolled ineligible children or children with no documentation of eligibility shall be required to repay the funds expended on behalf of the child to DHS.
- 4.11 An age-eligible child who falls into one of the following categories shall be exempt from family income requirements:
- Foster child
 - Child with an incarcerated parent
 - Child in the custody of/living with a family member other than mother or father
 - Child with immediate family member arrested for or convicted of drug-related offenses
 - Child with a parent activated for overseas military duty
- 4.12 The ADE and DCCECE may develop a fee schedule and establish eligibility based on family income for children who are not eligible under Section 4.4, but priority enrollment shall be provided to children eligible under Section 4.4. Families who are qualified for enrollment under a sliding fee scale should pay fees directly to the program. The amount of any parent co-pay as determined by DCCECE shall be deducted from the reimbursement to programs accepting children on a sliding fee scale.
- 4.13 DCCECE, with approval from ADE, may grant waivers to children not meeting the eligibility criteria under Sections 4.3 or 4.4 but possessing multiple risk factors for learning and developmental impairment. Requests for such waivers must be submitted to DCCECE in writing and will be considered on a case by case basis.
- 4.14 Children having certain risk factors may be eligible for home-visiting services, in addition to attending a center-based ABC program. See Section 198.06 for eligibility requirements.
- 4.15 Eligible children shall not be denied enrollment into an available ABC program or dismissed from an ABC program due to non-payment of any fees associated with another child care program.

SECTION 5 – PROGRAM/AGENCY ELIGIBILITY

- 5.01 Any child care provider meeting these criteria is eligible to apply for funding:
- Located within the boundaries of the State of Arkansas
 - Licensed by DCCECE as a Child Care Center or Child Care Family Home with no history of formal corrective action or founded complaints which pose an immediate safety risk within 12 months of application date
 - Has no outstanding debt to DCCECE or ADE (This requirement shall be suspended if an appeal is pending.)
 - Has obtained State Quality Approval accreditation OR is eligible for such accreditation in the space to be used for the ABC program
 - Can provide matching funds in accordance with local to state 40:60 funding ratio

The local-to-state match may be waived by DCCECE if the program is in a school district that has been designated by ADE as being in academic distress and DCCECE determines that the school is unable to provide the local-to-state match requirement. This determination may be made only after DCCECE has assisted the school in identifying potential funding sources to provide local-to-state match requirements.

- 5.02 Any provider wishing to be considered for funding must fully complete a grant application supplied by DCCECE. Grant applications will be evaluated and scored on the following factors:
- Current status of child care license and quality approval accreditation
 - The degree to which the program can provide a developmentally appropriate preschool program as outlined in the grant application
 - A strategy of collaboration with the local business and education community
 - A fiscally-responsible budget which correlates to core quality models
 - A plan of action for parent involvement
- 5.03 DCCECE will determine an acceptable cutoff score for approved applications. Questions and concerns regarding grant scoring should be referred to the Program Administrator. The ABC Administrator shall make the final determination of all grant scores. Grant scores are final.
- 5.04 All applications shall include a budget which corresponds to the ABC core quality components, details program costs and demonstrates fiscal responsibility. Allowable costs include:
- salaries/fringe
 - instructional materials
 - staff development
 - developmental screenings
 - parent/community engagement activities
 - financial assistance for staff working towards a degree or credential, including but not limited to books, tuition and travel.

SECTION 6 – FUNDING

- 6.01 Upon approval of an ABC application, the order of funding shall be based on criteria stated in Act 49 of 2003, which includes areas of the state containing:
- Schools that have 75% or more students scoring below proficiency level on the primary benchmark exams (math and literacy) in the preceding two (2) school years
 - Schools designated by ADE as being in school improvement status
 - Schools located in a school district in academic distress.

Other factors determining areas to be funded may include socio-economic status of the service area and the availability of existing quality preschool services in an area.

- 6.02 Any program funded through ABC shall work in collaboration with DCCECE, ADE, local businesses and other early childhood providers (school districts, educational cooperatives, Head Start, HIPPPY, private and non-profit providers, etc.) to ensure that all eligible children are served in the most suitable environment. This collaboration shall include, but is not limited to, participation in and/or facilitation of local early childhood meetings and referring families to other programs when appropriate.
- 6.03 The required local 40% match may include only the cost of providing necessary services for ABC children. Matching funds may be cash or in-kind.
- 6.04 State ABC Funding (60%) for the core components of the program may include salaries and fringe for staff giving direct services to ABC children, professional development, child assessment, developmental screening, meaningful parent and community engagement activities, proven curricula and learning processes, transportation and administration.
- 6.05 The maximum amount of funding is based upon projected child enrollment. Programs will be paid monthly. Payment shall be pro-rated for agencies not in operation a full program year. During the year, programs shall be audited to ensure compliance with child enrollment and attendance policies. An ABC program found to be enrolling ineligible children shall be required to repay applicable funds to DHS and be subject to all collection proceedings allowed by law. Funds may be withheld from future payments to satisfy repayment. Overpayments or the amount of any end of year carry-forward funds shall be deducted from future payments.
- 6.06 DCCECE shall not be responsible for sending out additional or late payments due to failure of Agency to enter data in COPA. DCCECE will assume any payments not disputed within 30 days of receipt shall be correct. DCCECE cannot retroactively pay any Agency for previous year services.
- 6.07 Payment shall be withheld if a program does not comply with reporting requirements.
- 6.08 ABC is intended to supplement, not supplant, existing early childhood funding sources.
- 6.09 Funding, not to exceed 2% of the total ABC funding pool, shall be available from the ABC monies for the additional support services required of DCCECE in administering the ABC program.

SECTION 7 – REPORTING

- 7.01 All child, family and staff information shall be maintained in COPA by the program. Attendance shall be taken daily and recorded in COPA at least monthly. Initial data must be entered by the due date set and published by DCC-ECE. Agencies shall update COPA data within ten (10) days of any change to family, child or staff data.
- 7.02 Each ABC program shall submit to DCCECE two (2) financial expenditure reports—due on January 30 and July 30 of each year—which detail operating expenses and enrollment data. Programs shall receive guidance from DCCECE on the specific format of each report.
- 7.03 An Agency shall operate its ABC program according to the financial guidelines outlined in the grant application instructions.
- 7.04 A complete and final disclosure audit of each ABC program is required and must be submitted annually for review to DCCECE. Any ABC program that is annually reviewed by Legislative Audit may submit the summary completed by that agency. All final audits shall be submitted within 120 days of the program’s fiscal year completion.
- 7.05 Programs that fail to adhere to a reporting deadline or respond to a request for information by DCCECE will be subject to compliance action as outlined in Section 22~~1~~.
- 7.06 Children qualifying under the sliding fee scale must be clearly marked as such in COPA. Programs shall also report any non-ABC qualifying children who have been assigned to an ABC classroom. Failure to do so is grounds for a compliance plan (See Section 22~~1~~). DCCECE will inform programs as to the manner that reporting shall take place.
- 7.07 Once a grant agreement has been signed, any change made to the program whatsoever shall be reported to DCCECE within five (5) working days of the change. This includes, but is not limited to, any changes in address, phone, e-mail address, staff, slot locations or budget items.

SECTION 8 – APPLICATION/RENEWAL APPLICATION

- 8.01 The Request for Applications will specify all application procedures for an ABC program. DCCECE is not obligated to review any proposal received after the submission deadline stated in the application.
- 8.02 If all ABC funds are not allocated or expended during any program year, the DCCECE may initiate an additional application period to fully obligate all available funds.
- 8.03 An Agency shall operate its ABC program in accordance with all information contained in the grant application. Any deviation from the information in the application must first be approved by DCCECE. This includes budget items.
- 8.04 All applications submitted by sectarian or sectarian-affiliated programs must first be reviewed to

United assure that approval of funding will not result in a violation of the First Amendment to the
States Constitution.

SECTION 9 – MINIMUM STANDARDS/CLASSROOM PROGRAMS

- 9.01 All ABC classroom programs shall satisfy the requirements specified in The Child Care Licensing Act, ACA Ark. Code Ann. § 20-78-201 through 224 and rules and regulations enacted pursuant to these sections.
- 9.02 All ABC center-based or family-home based programs shall maintain a license in good standing as referenced in Section 9.1. Any ABC program whose license is revoked shall be immediately terminated from the ABC program.
- 9.03 Agencies that are barred from participating in DHS programs pursuant to DHS Policy 1088 shall be ineligible for participation in ABC. Grant agreements for any existing programs excluded pursuant to this policy shall be terminated immediately. Programs placed on corrective action by DHS shall be subject to ABC compliance action as outlined in Section 22.
- 9.04 DCCECE is directly responsible for the inspection and evaluation of programs as referenced in Section 9.1. Inspections and monitoring visits may occur without prior notice. This includes quality visits, program reviews or any other visit by a DCCECE or authorized representative.
- 9.05 All ABC classrooms shall meet the criteria for becoming an "approved" Early Childhood program under the Arkansas Child Care Approval System Rules and Regulations, Ark. Code Ann. § 6-45-103 and 106 (Supp. 1993). An overall score of 5.0 is required for the ERS which is applicable to each classroom. DCCECE will utilize the following procedure for any program failing to meet these requirements:

Result of Program Review	Action Taken
1 st No Pass (ERS Score < 5.0)	Recommendations for improvements shall be made in writing to the Agency ABC Administrator/Coordinator and Teacher. Technical assistance shall be given to the Agency.
2 nd No Pass (ERS Score < 5.0)	Conference shall be held between Agency ABC Administrator/Coordinator, Teacher and DCCECE staff to advise Agency of 2 nd No Pass Status and required improvements. Agency is placed on probationary status with third review scheduled within 60 days of conference.
3 rd No Pass (ERS Score < 5.0)	Agency is partially or fully de-funded for next program year.

Any agency which is not renewed pursuant to this policy shall be ineligible to reapply for an ABC grant for a period of 12 months.

At the discretion of DCCECE, the following may be considered as mitigating circumstances: impact of deficiencies on child health, safety and welfare; willingness to improve upon factors within Agency control; likelihood of program passing next review and the time in which such improvements can be implemented. Recommendations for improvement may include staff changes.

- 9.06 For each child enrolled, ABC programs shall provide a minimum of 7 hours per day, 178 days per year for instruction.

- 9.07 Classroom-based programs shall follow public school regulations regarding the time requirements for teacher planning periods. However, planning periods for ABC teachers shall be scheduled at a time that does not violate minimum staff-child ratios or other ABC standards.
- 9.08 Programs shall utilize a parent handbook specifically designed for the ABC program. Attendance and tardy policies shall be clearly outlined in the handbook. Parents shall sign a statement stating they have received a copy of the handbook and understand its contents. Programs shall maintain a copy of the signed statement in the child record. Programs should direct specific cases to DCCECE for technical assistance or guidance.

SECTION 10 – STAFF/PUPIL RATIO FOR CLASSROOM PROGRAMS

- 10.01 The group size in any classroom with ABC children shall not exceed:
- 8 children for ages birth-18 months
 - 14 children for ages 18 months-3 years
 - 20 children for ages 3-5 years
 - or the classroom’s licensing capacity, whichever is less.

Programs may integrate ABC classrooms with children funded through other sources. However, the maximum group sizes listed above apply to ALL children in a classroom containing ABC children, regardless of funding source.

- 10.02 The adult-to-child ratio in any classroom with ABC children shall not exceed:
- 1:4 (birth to 18 months)
 - 1:7 (18 months-3 years)
 - 1:10 (3 years-5 years)
- 10.03 A minimum of 50% of the staff must remain in the classroom during rest time for children 3-5 years old only. Full staffing must occur for all other ages and at all other times, including meals.
- 10.04 Pursuant to licensing regulations, a teacher or aide may escort a child or group of children to a bathroom or school nurse if another qualified staff person remains in the classroom. A classroom shall not be counted out of compliance for a teacher taking a brief bathroom break as long as the other staff member remains in the classroom.

SECTION 11 – STAFF QUALIFICATIONS AND TRAINING REQUIREMENTS

- 11.01 The lead teacher shall hold a standard Arkansas teacher license with P-4 certification. Non-public school based or non-educational cooperative based ABC programs may hire a non-certified teacher with a bachelor's degree in early childhood education or child development. Non-public school or non-cooperative based ABC programs may not hire teachers with a provisional or initial teacher license. The Division shall consider degree exemptions for non-public school/coop based providers on a case-by-case basis, contingent upon the teacher having a requisite number of hours in early childhood and/or child development. Lead teachers must be able to demonstrate competency in the areas of developmentally appropriate programming, curriculum development and daily classroom management.

- 11.02 For multiple classroom sites, the teacher of a second classroom shall hold, at a minimum, an associate degree in early childhood education or early childhood development. Teachers must be able to demonstrate competency in the areas of developmentally appropriate programming, curriculum development and daily classroom management. The Division shall consider degree exemptions for non-public school/coop based providers on a case-by-case basis, contingent upon the teacher having a requisite number of hours in early childhood and/or child development. Non-public school or non-cooperative based ABC programs may not hire teachers with a provisional or initial teacher license.
- 11.03 The paraprofessional shall hold one of the following: an associate degree in early childhood education or child development OR a CDA credential. Paraprofessionals are an integral part of classroom instruction and should be given responsibilities which are commensurate with their education and experience. In general, paraprofessionals should be able to assist with classroom activities, interaction, supervision and observation.
- 11.04 Programs replacing a teacher or paraprofessional during the year—including those taking an indefinite leave of absence—shall consult with DCCECE on specific qualifications needed.
- 11.05 An ABC program coordinator or site director without teaching responsibilities shall meet the minimum licensing requirements for a center director AND complete Director's Orientation within a reasonable time period, subject to the availability of training. The coordinator or director will preferably have some experience in early childhood.
- 11.06 Caregivers in an infant/toddler ABC room shall hold a minimum of a CDA credential in infant/toddler care.
- 11.07 Staff members not qualifying under Sections 11.01-11.02 may work in an ABC program under an approved SQP. DCCECE will approve these plans on a case-by-case basis and shall monitor the plan to ensure adequate progress is being made. Programs shall file a SQP with DCCECE within fifteen (15) days of the date of hire and shall submit progress reports on January 30 and July 30 annually. Programs hiring staff members not meeting minimum qualifications without an approved SQP shall be subject to termination from the ABC program.
- 11.08 While adhering to the necessary qualifications, ABC programs should also strive to maintain an ethnically diverse staff appropriate to child enrollment.
- 11.09 Between July 1 and June 30 each year, All ABC teachers and aides shall participate in a minimum of thirty (30) hours of staff development on topics pertinent to early childhood education and approved by DCCECE. Persons who are obtaining an early childhood degree may count college course hours pertinent to early childhood education toward the required hours of staff development. Programs should multiply semester hours by 5 to obtain the number of semester hours counted towards ABC professional development.

- 11.10 Teachers and paraprofessionals shall be required to receive training in the following areas:
- Arkansas Early Childhood or Infant/Toddler Education Frameworks
 - Pre-K ELLA (Early Literacy Learning in Arkansas)
 - INDEX (Math and Science for Young Children)
 - Social/Emotional Learning in Arkansas
 - Work Sampling Online
 - COPA
 - Deveraux Early Childhood Assessment (DECA)
 - Special Needs, including process, Special Education rules and regulations and IDEA

With the exception of annual Work Sampling training and updates, timeframes for completing such requirements may vary with availability and access to the above trainings. DCCECE or ADE Special Education may mandate additional training subject to needs in various locations.

- 11.11 In addition to the requirements of 11.10, coordinators for each ABC programs shall ensure that all appropriate staff members attend mandatory ABC training (budgets, reporting, assessments, information technology, etc.) provided by DCCECE. Programs with staff members not adhering to these requirements are subject to the terms of a compliance plan as outlined in Section 21.
- 11.12 The ABC program coordinator and all ABC staff shall register with the AECPPS Registry. The Registry identification number for each staff shall be entered in COPA.
- 11.13 ABC programs shall establish an employment agreement in writing with all classroom staff. This agreement shall outline working conditions, dates and hours of employment, compensation and fringe benefits. A copy of the public school teacher contract shall satisfy this requirement.

SECTION 12 – STAFFING PATTERNS/CLASSROOM PROGRAMS

- 12.01 Single classroom sites for preschool shall have a teacher qualified under 11.01-11.02. Classrooms with over 10 children must have a paraprofessional qualified under 11.03.
- 12.02 For ABC programs operating infant/toddler classrooms, programs must have one (1) qualified caregiver meeting the requirements of Section 11.6 for either every four children (infants) or seven children (toddlers).
- 12.03 In multi-classroom sites, the following staffing patterns shall be adhered to:

# Classrooms	Lead Teacher (11.01)	Classroom Teacher (11.02)	Paraprofessional (11.03)
1	1	0	1
2	1	1	2
3	1	2	3
4	2	2	4

- 12.04 A classroom which is partitioned in any way may be considered multiple classroom space by DCCECE. Factors to be considered in this decision shall include supervision issues, as well as level of staff qualifications in the classroom areas.

SECTION 13 – PROGRAM STANDARDS

- 13.01 All early childhood programs funded by ABC monies shall be developmentally appropriate and individualized to meet the needs of each student enrolled. The following references shall be utilized to determine developmental appropriateness:
- *Developmentally Appropriate Practice in Early Childhood Programs*, Revised Edition, Edited by Sue Bredekamp and Carol Copple, © 2004 by NAEYC
 - *From Neurons to Neighborhoods: The Science of Early Childhood Development*, Edited by Jack P. Shonkoff, M.D. and Deborah A. Phillips, © 2000 by National Academy of Sciences.
 - Arkansas Early Childhood Frameworks
- 13.02 Programs shall demonstrate that the classroom arrangement satisfies “substantial portion of the day” as defined by the environmental rating scales. If used, room dividers shall be arranged and of sufficient height to prohibit distractions from other classes yet not hinder proper supervision within the classroom.
- 13.03 Each classroom shall be equipped with toys, books and play apparatus to take care of the needs of the total group and to provide each child with a variety of activities through the day. A variety of equipment shall be accessible from low shelves to children of all ages and shall be arranged in learning centers.
- 13.04 The program shall be individualized to meet the needs of each student enrolled. Each curriculum model and the actual classroom practice will be assessed using the applicable environmental rating scale to ensure the model is developmentally appropriate.
- 13.05 The program shall have a written overall curriculum plan which is arranged in thematic units, projects or topics of study and includes goals and objectives related to the following: cultural diversity, social/emotional development, creative/aesthetic learning, cognitive/intellectual learning, physical development and language.
- 13.06 All programs must utilize a curriculum approved by DCCECE. A list of approved curriculum models will be made available by DCCECE on an annual basis. A program wishing to use a curriculum not on the list may request, in writing to DCCECE, consideration of an additional curriculum. Program coordinators shall ensure teachers have adequate training on curriculum.
- 13.07 Children shall participate in a daily schedule that reflects a balance among the following types of activities: indoor/outdoor; quiet/active; individual/small group/large group; gross motor/fine motor; child initiated/teacher initiated.
- 13.08 Routine and transition times throughout the day, such as preparing for mealtime, shall be used as opportunities for incidental learning. Transition times shall be planned to avoid frequent disruption of children's activities and long waits between activities.

13.09 Programs shall maintain an individual child record on site. At a minimum, the record shall contain copies of:

- Birth certificate, hospital birth record or other official verification of birth date
- Documentation of child eligibility
- Completed and dated application form
- Emergency information, including non-parental contact and medical information
- Parental authorization for medical care, daily pick-up and field trips
- Field trip authorization
- Completed Health Form and Immunization record (or proof of current immunizations)
- Record of completed developmental screening
- Samples of child's work
- Teacher and parent observations and summaries of parent-teacher conferences
- Work Sampling Developmental Checklists

Child records or any ABC file containing personal information on families and children shall be kept in a locked file cabinet with access granted only on a need-to-know basis. The child record shall be available for inspection by DCCECE staff. If certain records must be stored off-site, copies shall be made and given to teachers to maintain in a record on-site. In maintaining and updating child and family data, ABC programs shall utilize COPA. Other than those documents required to be retained for licensing purposes, teachers shall give a copy of the child's record to the parent upon completion of or dis-enrollment from the program or forward the record to the child's kindergarten program.

13.10 The arrangement of indoor and outdoor equipment, materials and interest areas for each group shall provide for:

- Accessibility to equipment and materials so that children may select and return them easily
- An orderly, uncluttered atmosphere
- Visual and/or auditory supervision of children in all areas
- Separation of active and quiet play areas
- Traffic patterns that avoid disruption of activities

13.11 At a minimum, developmentally appropriate equipment and materials of sufficient quantity to accommodate a sustained learning environment shall be provided in the following interest areas/learning centers:

- | | |
|---------------------------------|------------------------------|
| 1. Blocks | 5. Discovery/Science Sensory |
| 2. Dramatic Play | 6. Sand/Water Play |
| 3. Stories/Language Development | 7. Manipulative |
| 4. Art | 8. Music |

13.12 Outdoor play shall be used as an extension of the learning activities that occur in the classroom. As such, ABC staff shall participate in this activity. Each ABC classroom shall offer a minimum of 60 minutes of outdoor play daily unless prevented by inclement weather.

- 13.13 The outdoor play area shall be developmentally appropriate and meet the Consumer Product Safety Commission standards for outdoor play areas. The outdoor play area shall provide the following:
- A variety of surfaces
 - An arrangement designed for appropriate flow of activities
 - Climbing and other active play items and structures
 - Open areas for running and games
 - Opportunities for dramatic play
 - Adequate storage for equipment and materials
 - Partial shade
 - Quiet, private spaces
 - A separate outdoor area equipped for infants and toddlers (if applicable)
- 13.14 Provision should be made through program design and networking efforts to ease the transition of children moving from one program or age grouping to another or to public school kindergartens. This provision must include individual needs assessments on each child, lesson plans and specific activities written into the program design. At a minimum, the transition plan shall involve parents and appropriate school district personnel.
- 13.15 ABC programs are required to provide free nutritious meals and snacks for all children enrolled in ABC/ABCSS. Mealtime is an opportunity to engage children in conversation about the day and themselves. Therefore, ABC staff shall participate with the children during this time. Children shall be given an appropriate amount of time for meals and conversation.
- 13.16 Parents or guardians of children qualified as eligible for ABC services shall not be required to pay any fees or provide food or supplies during ABC program hours. This includes enrollment fees, field trip expenses or uniforms.
- 13.17 Electronic mail is a necessary means by which DCCECE communicates vital information to programs. All participating programs must maintain a working e-mail address which is checked daily. Applicable information shall be distributed to classroom staff by the program coordinator.

SECTION 14 – CLASSROOM MANAGEMENT/SPECIAL EDUCATION

- 14.01 No child in ABC shall be dismissed or expelled from the program for behavior without approval from DCCECE.
- 14.02 Discipline shall reflect positive guidance, be consistent and individualized for each child. Such discipline shall be appropriate to the child's level of understanding. Corporal punishment is an unacceptable method of discipline and shall not be used. Programs shall specifically define their approach to handling inappropriate behavior in the ABC parent handbook.

- 14.03 When a child presents with challenging behavior, teaching staff shall follow the standards of NAEYC Accreditation:
- Observe the children, then identify events, activities, interactions and other factors that predict and may contribute to challenging behavior.
 - Rather than focus only on eliminating the behavior, teaching staff shall focus on teaching the child social, communication, and emotional regulation skills and using environmental modifications, activity modifications, adult or peer support and other teaching strategies to support the child's appropriate behavior.
 - Teaching staff shall respond to challenging behavior, including physical aggression, in a manner that:
 - provides safety of the child
 - provides for the safety of others in the classroom
 - is calm
 - is respectful to the child
 - and provides the child with information on acceptable behavior.

(From Accreditation Standards, National Association for the Education of Young Children)
- 14.04 Teacher-parent discussions regarding a child's behavior shall be held in private and shall focus on working as a team to develop and implement an individualized plan that supports the child's inclusion and success. *(Adapted from NAEYC)* Teachers should request technical assistance from DCCECE on any discipline issues on which they have questions.
- 14.05 If necessary, intervention shall ensure each child has access to professional services, such as referrals to the educational cooperative behavioral specialist, the ADE-funded regional support network for early autism identification, community mental health center and a private therapist. If a child in question has a disability and is in the process or has been identified under IDEA, the ABC program shall follow state special education rules and regulations governing suspension/expulsion.
- 14.06 If children demonstrate inappropriate behavior, as indicated by the results of the DECA given by ABC staff, the ABC program shall consult with the Early Childhood Special Education program regarding classroom modifications and interventions.
- 14.07 For any ABC child also receiving special education services, appropriate staff from the Education Cooperative or school district shall have access to the child at mutually agreeable times during the program day in order to provide services outlined in the child's IEP.
- 14.08 For any ABC child requiring the intervention services of special education, the ABC program shall collaborate with special education professionals to ensure each party has access to necessary information to provide the appropriate services. Early Education Special Education teachers shall have access to any information pertaining to a child receiving special education that is in the possession of the ABC program that would be necessary for reviewing and evaluating the child's progress in the general education setting. Access to proprietary information on the child shall be on a need-to-know basis.
- 14.09 A child shall not be dismissed from the ABC program due to a lack of toilet training skills. Nor may a program refuse to admit a child because of toilet training issues if the child meets all other age and income eligibility requirements.

- 14.10 ABC programs shall assist children not yet toilet-trained with cooperation and enthusiasm. Programs shall not employ toilet-training techniques which could be construed as punishment or shaming the child. Programs are encouraged to include the parent or guardian in any plan so it may be reinforced at home. Funds from ABC may be used to purchase resources necessary to support toilet training.

SECTION 15 – ASSESSMENT AND SCREENINGS

- 15.01 DCCECE and ADE shall work cooperatively to ensure that the assessments are conducted as required by Act 49 of 2003.
- 15.02 Children in the ABC program shall be assessed annually to provide an indication of each child's progress towards school readiness.
- 15.03 The assessment shall address a child's strengths, progress, and needs and shall serve as a central part of an effective early childhood program. The assessment instrument selected by DCCECE and ADE shall be used for children enrolled in an ABC program.
- 15.04 A comprehensive longitudinal study shall be implemented to evaluate the ABC program to ensure that the program goals are achieved. The study will be designed to use sound research-based evidence to determine whether the programs meet the expected standards. This research shall include children entering the program at ages three (3) and four (4) years and follow the children through completion of the fourth grade benchmark exams. Research results will be provided annually to the Governor and the Senate Interim Committee on Education and the House Interim Committee on Education.
- 15.05 Within forty-five (45) days of entering an ABC program, a child shall receive a routine annual developmental screening to determine individual needs. The program agency shall be responsible for completing the developmental screening. The purpose of screening is to identify developmental delays and/or educational deficiencies. Children so identified shall be referred to Special Education within seven (7) calendar days of the date of screening. Programs shall comply with state and federal laws for Special Needs students.
- 15.06 The developmental screening must include, at a minimum, the following areas: vocabulary, visual-motor integration, language and speech development, fine and gross motor skills, social skills and developmental milestones.
- 15.07 DCCECE will provide a list to programs of all acceptable developmental screening instruments on an annual basis.
- 15.08 Within 45 days of the first day of attendance, every child shall receive an age-appropriate health screening, which includes a hearing and vision test, performed by a licensed physician or physician assistant. Programs should contact DCCECE for information on seeking a waiver under Ark. Code Ann. § 6-18-701 (~~Repl. 1993~~). Programs shall work in partnership with parents to obtain health screening information.

- 15.09 On or before the first day of attendance, parents or guardians shall provide proof that their child is current on all required immunizations or is on an acceptable "catch up" schedule. A waiver from this requirement may be granted from the Arkansas Department of Health under ACA Ark. Code Ann. § 6-18-702 (Repl. 1993).
- 15.10 Every classroom shall be equipped with a computer with high-speed internet access (where available in the state). Each home-based educator shall also have such access to a computer. This equipment is necessary for the timely completion of enrollment data in COPA and assessment data in the Work Sampling System.

SECTION 16 – PARENT AND COMMUNITY INVOLVEMENT

- 16.01 Each program shall have a plan for parent involvement which includes opportunities for parental input into program operation and design. Parent involvement plans shall include a mechanism for parental advice and review of programmatic plans, parent conferences and a method to involve the parent in the child's educational experience.
- 16.02 The program shall have an "open door" policy for parents which encourages visiting and participation in classroom activities. Opportunities for at least two parent-teacher conferences shall be given to parents.
- 16.03 The program shall publish and utilize a parent handbook specifically for ABC program.
- 16.04 Each program shall have a plan for community/school district/educational services cooperative/agency involvement, which includes a description of how cooperation with other service providers who are concerned with the education, welfare, health and safety needs of young children, will be established and maintained. Programs should consider providing opportunities for community representatives to participate in the educational activities of the classroom.

SECTION 17 – TRANSPORTATION

- 17.01 ABC Programs shall be required to comply with all applicable state and federal laws and guidelines (including the National Highway Traffic Safety Administration 's Guidelines for the Safe Transportation of Children in School Buses), as well as Child Care Licensing Standards, regulating the transportation of children.
- 17.02 Offering transportation to and from an ABC program is strictly optional. DCCECE and ADE accept no liability for the transportation of children participating in an ABC program. Program agencies shall be responsible for the actions of their drivers. Drivers are subject to all background checks and exclusionary violations applicable to school district employees having contact with children.
- 17.03 If an ABC program is approved to use the "buddy" system on a bus, the Agency shall NOT pair an ABC child with another child younger than sixth grade.

- 17.04 An ABC child shall NOT be released from the vehicle unless an authorized adult meets the vehicle at a stop or in front of the child's home. Programs shall never release an ABC child from the vehicle alone. After exiting the vehicle, an ABC child shall not cross a street unless accompanied by the authorized adult.

SECTION 18 – OTHER PROGRAM MODELS

- 18.01 Alternate programs may include, but are not limited to, Licensed Child Care Family Homes, PAT and HIPPY. These programs will comply, where applicable, with the regulations herein.
- 18.02 All ABC funded alternate program models will be developmentally appropriate, meet applicable health and safety standards, provide developmental and health screenings and ensure immunizations of the child served.

SECTION 19 – HIPPY REGULATIONS

- 19.01 HIPPY programs shall meet program criteria as outlined in the contractual agreement signed by each site with Arkansas Children's Hospital and HIPPY USA.
- 19.02 Each HIPPY program serving at least 160 families must have one (1) full-time coordinator, holding a minimum of a bachelor's degree in education, social work, sociology, psychology, or related field. Those coordinators without a related degree must obtain at least 12 college course hours in early childhood. Programs with more than 250 children must also have at least one part-time coordinator who holds a minimum of an Associates Degree in early childhood education, social work, psychology or related field. Coordinators shall also meet additional job requirements as described in the HIPPY USA Coordinator job description. HIPPY Coordinators must attend National HIPPY Pre-service Training and receive certification. Regardless of the number of children served, HIPPY Agencies must make provision to ensure all home-based visitors are supervised appropriately by trained staff.
- 19.03 Home Based Educators working 31-40 hours per week may not serve more than 27 families. Minimum requirements for home educators include a high school diploma/GED and a current CDA credential. All new HIPPY home-based educators are required to attend new Home-based Educators training provided by Arkansas State HIPPY.
- 19.04 Hiring of any HIPPY coordinator or home-based educator not meeting the requirements of 19.02-19.03 must be approved by DCCECE through a Staff Qualifications Plan. DCCECE shall monitor such plans to ensure adequate progress is being made. HIPPY Coordinators working under a staff qualifications plan must obtain at least 12 college hours per year.
- 19.05 HIPPY programs must follow the child eligibility requirements found in Section 4. However, the cut-off date for determining age eligibility for children served in HIPPY is December 31 of each year.

- 19.06 In order to dually enroll a child in an ABC center and HIPPY, a child must meet the ABC income requirements (< 200% FPL) plus possess at least one of the following factors:
- Parents without HS diploma or GED
 - Birth weight < 5 pounds, 9 ounces
 - Parent is < 18 years of age at child's birth
 - Family has a history of substance abuse/addiction
 - Eligible for services under IDEA
 - Parent has a history of abuse or neglect or is a victim of abuse or neglect
 - Child exhibits a demonstrable developmental delay-as identified through an appropriate screening
 - Child lives in a single parent household or has parents who are divorced
 - Child is a foster child
 - Child has incarcerated parent
 - Child has parents who cannot read
 - Child is homeless
 - Child or parent has limited English Proficiency
 - Child is in the custody of family member other than mother and father

Whichever program enrolls the child at the later date shall be responsible for verifying eligibility for dual enrollment. Dual enrollment shall not exceed 25% of the program's total ABC enrollment. If the same Agency operates both a center-based and home-visiting program, dual enrollment shall not exceed 25% of the average of both programs' enrollment.

- 19.07 Center-based and home-visiting programs shall collaborate in providing services to any child qualifying for dual enrollment under 19.06.
- 19.08 The Arkansas HIPPY Training and Technical Assistance (T and TA) Office will monitor and assist HIPPY programs throughout the state. Annual program site reviews and assessments will be forwarded to DCCECE for consideration of program compliance and funding renewal. The Arkansas HIPPY Office will assist DCCECE with determining program compliance at the local level.
- 19.09 HIPPY programs shall meet requirements as set forth in Sections 4-9 and 13-16.
- 19.10 Group meetings should reflect the educational programming standards as set forth in Section 13 and guidelines set forth in the HIPPY model.
- 19.11 Any enhancements designed to complement the HIPPY curriculum must be approved by the Arkansas HIPPY Office prior to implementation with families.

SECTION 20 – PARENTS AS TEACHERS REGULATIONS

- 20.01 PAT Programs shall meet program criteria as outlined in PAT Program Implementation and Planning Guide.
- 20.02 All PAT Coordinators must attend the PAT Institute Training and obtain either a Parent Educator Certificate or an Administrator's Certificate.
- 20.03 Each program must have a certified Parent Educator, who may also serve as Coordinator.

- 20.04 PAT Parent Educators working on a part-time basis (20 hours per week) should serve 30 and not more than 40 children and their families.
- 20.05 PAT Programs shall operate on a twelve month, year-round basis. Families must be offered twelve personal visits and six parent group meetings.
- 20.06 PAT Programs shall follow the child eligibility requirements found in Section 4.
- 20.07 PAT programs may dually enroll children also participating in a center-based program under the guidelines of 19.06-19.07.
- 20.08 PAT Programs must coordinate services with HIPPIY Programs where both exist in the same community to avoid duplication of services.
- 20.09 PAT Programs shall meet requirements as set forth in Sections 4-7 and 14-16.

SECTION 21 – CHILD CARE FAMILY HOMES

- 21.01 Licensed child care family homes participating in ABC must meet the same requirements as an ABC center, except where listed in this section.
- 21.02 Group size for an ABC classroom in a CCFH shall not exceed sixteen (16) children or maximum licensing capacity, whichever is less.
- 21.03 The ABC family home teacher must possess a minimum of a CDA credential and file a Staff Qualifications Plan which outlines a plan to complete a four-year degree in early childhood or child development. For any ABC room with more than 10 children, an additional staff person with a minimum of a CDA credential must also be present.
- 21.04 No SQP shall be approved for an ABC family home teacher to complete a CDA credential or Associate degree. The only SQP that shall be approved for an ABC family home teacher is for a four-year degree in early childhood or child development.
- 21.05 In evaluating the ABC program in a CCFH, the applicable ERS for family homes shall be utilized. Family homes shall be subject to the same guidelines as listed in Section 9.

SECTION 22 – COMPLIANCE

22.01 Any person may make a formal complaint with the DCCECE if that person has reason to believe that an ABC provider failed to comply with these rules or Ark Code Ann. 6-45-101 et seq.

22.01.1 The formal complaint shall include the following:

22.01.1.1 The name, phone number and address of the complaining party;

22.01.1.2 The name of the ABC program complained of;

22.01.1.3 A brief description of the acts or omissions the complaining party has reason to believe constitute a violation of these rules or Ark Code Ann. § 6-45-101 et seq;

22.01.1.4 Documents, if any, that support the complaint; and

22.01.1.5 The names and contact information, if known, of any witnesses who may possess information relevant to the complaint.

22.01.2 Signed complaints shall be mailed to the DCCECE at:

Arkansas Better Chance Program
Division of Child Care and Early Childhood Education
700 Main Street, Slot S-140
Little Rock, Arkansas 72203-1473

22.01.3 DCCECE staff shall investigate the complaint. The investigation shall afford an opportunity for the ABC provider to respond to the complaint.

22.01.2 An ABC program found to be out of compliance with any ABC Rule or Regulation shall be placed on a 60-day Compliance Plan. During this probationary period, a program must make all necessary corrections or be subject to termination from the ABC program. Compliance deficiencies may also result in immediate termination from the ABC program, denial of future ABC funds, repayment of funds and exclusion from participation in any DHS programs.

22.02³ Issues for a compliance plan may include, but are not limited to:

- Founded licensing or maltreatment complaints
- Violations of minimum licensing standards
- Revocation of Quality Approval status or failing to meet Quality Approval standards
- Financial mismanagement, including use of funds for programs other than ABC *programs as set forth in these rules.*
- Failure to operate program in accordance with approved budget or any part of an approved grant application
- Enrolling ineligible children or refusing to enroll an eligible child due to toilet training issues or non-payment of other child care fees
- Habitually late reports or missing information
- Failure to report a change in program status within five working days
- Program deficiencies documented by DCCECE or any authorized representative
- Erroneous or fraudulent billing of DCCECE vouchers or Special Nutrition programs
- Falsification of any document or information
- Hiring of unqualified staff without consultation with DCCECE on a Staff Qualifications Plan.
- Staff members not meeting the requirements of a Staff Qualifications Plan.
- Dismissing or expelling a child from a program without approval from DCCECE

22.03⁴ Any program who submits a falsified document will be subject to immediate termination from the ABC program, repayment of funds and possible referral of program officials and/or responsible employees for criminal prosecution.

22.04⁵ An ABC program may appeal any adverse action taken by DCCECE. Such appeals must be in writing and be received within thirty (30) days of the notice of corrective action. A program wishing to appeal should send a written notice to Attention: DCCECE Division Director, P.O. Box 1437, Slot S-140, Little Rock, AR 72203. The Division Director will make a recommendation to the State Board of Education, which will issue a final ruling.

SECTION 23 – ADDITIONAL REGULATIONS CONCERNING THE USE OF ARKANSAS BETTER CHANCE PROGRAM FUNDS

23.01 Purpose: To assure that public funds are spent in compliance with U.S. Const. Amend. I, which prohibits any state or federal “law respecting an establishment of religion, or prohibiting the free exercise thereof.”

23.02 Limitation: This section is not an exhaustive list of criteria to test constitutional sufficiency. The question in every case is whether state funds impermissibly aid a religiously based or affiliated entity in discharging its religious mission. The answer will be controlled by the particular facts of each case.

23.03 Definitions: As used in this Section 23:

23.03.1 “ABC day” means the seven (7) hours beginning with the first ABC activity of the day and includes all activities described in Section 13 of the ABC

Program Standards.

23.03.2 "ABC instructional materials" means any tangible thing, such as a book, paper, poster, picture, slide, object, or display; or image or sound that an ABC provider uses to impart knowledge during an ABC day.

23.03.3 "Administrative costs" means:

(a) Salaries (including fringe)-Director and Assistance Director;

(b) Salaries-Housekeeping;

(c) Group Health Insurance;

(d) Child Care Center liability insurance;

(e) Pensions;

(f) Unemployment Taxes;

(g) Worker's Compensation;

(h) Accounting Fees;

(i) Housekeeping Supplies; and

(j) Criminal Background Checks.

23.03.4 "Professional services" means, without limitation, assessment, screening, instruction, and parent/community engagement activities.

23.03.5 "Religious activities" means, without limitation, religious services, prayer, religious rituals, or religious instruction provided or carried out by or under the authority of the ABC program.

23.03.6 "Secular" means not related to religion.

23.04 Conditions of Participation as an ABC Provider:

23.04.1 ABC programs must admit eligible students without regard to race, gender, national origin, ancestry, color, disability, creed, political affiliation, or religion.

23.04.2 ABC funds must be used exclusively for the following expenses incurred to provide ABC services:

(a) Professional services (salaries *compensation* and fringe benefits);

(b) Assessment and screening tools;

- (c) Instructional materials;
- (d) Transportation to and from ABC programs;
- (e) Staff development;
- (f) Financial assistance for staff working towards a secular degree or credential relating to early childhood education, including but not limited to books, tuition and travel; and
- (g) If ABC funds remain after paying the expenses described in subparagraphs (a)-(f), those funds may be used to:
 - (1) Provide food for ABC students;
 - (2) Pay that portion of administration costs, utilities, or both, attributable to day care operations multiplied by the following fraction: number of ABC students/ total number of day care students.

23.04.3 All ABC instruction and instruction materials must be secular and neutral with respect to religion.

23.04.4 No religious activity may occur during any ABC day *and no ABC funds may be used to support religious services, instruction or programming at any time.*

23.04.5 Each ABC provider *must maintain documentation that it has provided parents and guardians with the following written notice:* ~~that also offers religious activities must maintain documentation that it has informed parents and guardians in writing that no religious activity will be paid or subsidized by public funds or occur in any manner suggesting governmental endorsement of any religion or religious message.~~

"To assure that no religious activity is paid or subsidized by public funds or occurs in any manner suggesting governmental endorsement of any religion or message:

(a) ABC funds must be used exclusively to support allowable ABC program costs incurred to provide non-religious instruction and activities during the ABC day; and

(b) No religious activity may occur during any ABC day regardless of the source of funds used to support the activity."

23.04.6 Each ABC provider must annually certify compliance with each

requirement of this rule and agree to such unannounced public inspection and investigation as may be necessary to ascertain and monitor the provider's compliance.

23.04.7 *Each ABC provider must establish and maintain a separate bank account for the deposit, transfer and withdrawal all ABC funds. No other funds of the ABC provider shall be commingled in the bank account with ABC funds and no ABC funds shall be placed in another bank account maintained by the ABC provider.*

Arkansas Better Chance Program Proposed Rules – Public Comment Matrix

Date	Respondent	Comment	ADE Response
2/14/12	Mike Houston	<p>"The purpose of the Arkansas Department of Education is to provide the highest quality leadership, service, and support to school districts and schools in order that they may provide equitable, quality education for all students in Arkansas PUBLIC schools. With a staff of approximately 300 professionals, the ADE is firmly committed to this mission."</p> <p>My question does the State of Arkansas own these schools? If the answer is NO then you have no right to govern what they teach. Funding that you gave out was your choice with out strings therefore hindsite rulings should be null and void. In saying this I believe it is wrong for private groups to take Gov. (public) funds because this is what the Government does instead of protecting the first amendment you do everything possible to trample on those rights. It's sad day for America that we allow those with no real vision for anything to stomp on our freedom.</p>	<p>From its original enactment, Ark. Code Ann. § 6-45-106 (a)(1)(B) has required compliance with the Establishment Clause, which prevents the expenditure of public funds to directly aid religion, regardless of whether the religious activity occurs on publicly owned property. See, e.g. <i>Comm. for Pub. Educ. & Religious Liberty v. Nyquist</i>, 413 U.S. 756, 778 (1973);</p>
2/23/12	Greg Bullard	<p>I recently read that you were opening up for public comment, a proposed rule for banning religious teaching during school hours by pre-schools. I do not live in Little Rock, but I wanted to write a letter to make a comment that could be added to the others.</p> <p>NOTE: This letter is being sent to the main communications line for the ADE, and all board members.</p> <p>To Whom it May Concern,</p> <p>I am perplexed as to the need for a law like this. The laws that are currently in place, concerning the teaching of religious ideology in schools are well established on a federal level. A state should not feel the need to create laws re-enforcing laws it is already required to follow, thus simply adding to our collection of state laws. Can it be assumed that the owner of these two institutions isn't aware that receiving government funds (over half a million over a two year period) would entail that he would be required to follow the same rules as everyone else? It is sad to me that this is one of our elected Representatives. For the record, I have no problem much like the law has no problem, with private religious schools teaching religion in their classrooms. I'm personally not a</p>	<p>The Establishment Clause "is not a precise, detailed provision in a legal code capable of ready application." <i>Lynch v. Donnelly</i>, 465 U.S. 668, 678 (1984). Rather, the Founders included the Establishment Clause to state an objective. <i>Id.</i> (Citations omitted).</p> <p>The line between permissible relationships and those barred by the Clause can no more be straight and unwavering than due process can be defined in a single stroke or phrase or test. The Clause erects a "blurred, indistinct, and variable barrier depending on all the circumstances of a particular relationship."</p> <p><i>Id.</i> at 678-9 (citations omitted.) It is difficult to "draw lines between forbidden and lawful benefit." <i>Mitchell</i>, 530 U.S. at 869 (Souter, J., dissenting). After more than 50 years of struggle, "not all of the points creating the boundary have enjoyed self-evidence." <i>Id.</i> Amplifying this point, Justice Souter added:</p>

Arkansas Better Chance Program Proposed Rules – Public Comment Matrix

		<p>fan of religion, but I understand the separation of church and the state, and would not impose upon their rights. However, My personal state tax money has now been collected into a pool of funds that has been distributed to support these two religious institutions. If they have taken this huge sum of money, then I feel confident that surely they are operating in the red, and would not have their doors open unless they were being supported by state funding. This is the case with public schools too; they do not support themselves, they exist because of funding provided by the government. I believe that the law itself should not be needed, because this matter has been settled years before any of these children were born. However, since the state of Arkansas sees fit to supplement the established law with even more red tape, then I would like not only for the proposition to pass, but an investigation should be considered into State Sen. Key, as to why he was accepting money for an institution of learning, with an intent on supplementing education with religious teachings. Taking a half million is not something that should be ignored. Irony all around, that he is dishonestly stealing to teach a doctrine that sees stealing as a sin.</p>	<p>In all the years of its effort, the Court has isolated no single test of constitutional sufficiency, and the question in every case addresses the substantive principle of no aid: what reasons are there to characterize this benefit as aid to the sectarian school in discharging its religious mission? <i>Particular factual circumstances control</i>, and the answer is a matter of judgment.</p> <p><i>Id.</i> (Emphasis added.) Far from being settled, Establishment Clause jurisprudence has changed significantly over time. See, e.g., <i>Agostini v. Felton</i>, 521 U.S. 203, 207 (1997). Consequently, proposed rules governing the particular factual circumstances of the ABC program are necessary to notify providers of their obligations under the Establishment Clause, and to guide regulators in matters of judgment.</p>
2/13/12	Linda Ferguson	<p>I understand the Ark. Board of Education has come down on a Christian pre-school for having prayers and teaching Bible stories. I'm told this is being done simply because you can since this school has accepted gov. funding. My guess is that the secularists, ACLU, atheists or others are the ones complaining. I want to point out that surely you people have not failed to notice that children of all ages in Arkansas and across the country are not being taught the moral lessons people must know for all of us to behave civilly and acquire virtues and principles that will carry them through their lives avoiding conflicts with others. Parents, schools and churches have failed our children for various reasons. Bottom line is that a good many of our children do not know how to conduct themselves as civilized human beings. To put a stop to any person or organization teaching our children the moral tools they need to succeed is unconscionable. I ask you to back off this attack against Growing God's Kingdom or any other school that attempts to instill morals and good behavior. Those opposing the</p>	<p>The proposed rule does not prohibit the teaching of moral lessons, which the dictionary defines as “principles of right and wrong in relation to human action and character.” <i>American Heritage Dictionary</i> 813 (2d coll. Ed. 1985). Instead, the proposed rule prevents direct public aid to the teaching of religion, which the dictionary defines as “[b]elief in and reverence for a supernatural power recognized as the creator and governor of the universe.” <i>Id.</i> at 1044.</p> <p>The priceless truths of the Bible are best taught to our youth in the church, the Sabbath and parochial schools, the social religious meetings, and, above all, by parents in the home circle. There, these truths may be explained and enforced, the spiritual welfare of the child guarded and protected, and his spiritual nature directed and cultivated, in accordance with the dictates of the parental</p>

Arkansas Better Chance Program Proposed Rules – Public Comment Matrix

		<p>curriculum of this school are only doing so out of hatred and resentment of Christianity. Can you not see this? To do anything else is to fail our children.</p>	<p>conscience. The Constitution does not interfere with such teaching and culture. It only banishes theological polemics from the district schools. It does this, not because of any hostility to religion, but because the people who adopted it believed that the public good would thereby be promoted, and they so declared in the preamble.</p> <p><i>Schultz v. Medina Valley Indep. Sch. Dist.</i>, 2012 WL 517518 (W.D. Tex.) (quoting <i>State ex rel. Weiss v. Dist. Bd.</i>, 76 Wis. 177, 44 N.W. 967, 976 (1890)).</p>
<p>2/28/12</p>	<p>Teresa Fine</p>	<p>The past few weeks I have been reading with interest the development of the rules regarding ABC day cares in our state. I was very concerned when an article first appeared in the Arkansas Democrat Gazette regarding an inspection and reprimand of an ABC Day Care. It seemed the General Assembly and the Department of Education were at odds over the intent of the parameters of the centers. It is understood that when any facility receives public monies it is subject to the governing authorities mandates. In reading the rules of the ABC Centers on the web I saw something. The ABC rules speak in Section 23 that its purpose is to uphold the first amendment in regard to religion. There is no mention of the other first amendment rights of these small citizens in their freedom of speech, freedom of press, the right to peaceably assemble, and the right to petition the government for redress of grievances. There is also no mention of protecting the free exercise of religion mentioned in this amendment. To understand this amendment more fully I believe it is most helpful to look at other contemporary writings by the same authors of the Bill of Rights and the Constitution they penned. I began to look up these things and the journey was fascinating and enlightening. In May of 1787 the Constitutional Convention (as it is now called) met to address the weaknesses and deficiencies of the Articles of Confederation which governed our young nation. They found it inadequate in its scope and began work on what would be our Constitution by which we are still governed. The first draft was ready in August and the final one in</p>	<p>See previous comment.</p> <p>Like the Establishment Clause, the Free Exercise Clause is contained in the First Amendment to the United States Constitution. Both clauses are of equal importance.</p> <p>The Free Exercise Clause was a guidepost in developing the proposed rule, as evidenced by the care taken to assure that the proposed rule does not impair the exercise of religion in connection with any activity that is not supported with public funds.</p>

Arkansas Better Chance Program Proposed Rules – Public Comment Matrix

		<p>September of that same year. By that time our young nation was expanding westward at a rapid pace. In order to set protocols and parameters by which as yet unformed population could become at first territories and then states the Northwest Ordinance of 1787 was passed in July of that year in the midst of it all. It addressed many of the same values held by our founding fathers that were being incorporated into the yet to be finished Constitution. Ratification would take time and expansion would not wait. This document guaranteed in the territories what would soon be guaranteed in the states: freedom of religion, freedom of speech, freedom of press, the right to peaceably assemble, habeas corpus, bans on cruel and unusual punishment, trial by jury, ex post facto laws, and the right to petition the government for redress of grievances. It also set the standard for public education at that time. "Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged." Our children today are in no less need of these same values in themselves and in their government. If we truly want to give these small "Arkansans a Better Chance" as these rules so state as their purpose we should take some very old advice and allow the free exercise of religion in these ABC Day Cares. It would not be a bad idea to do as the Northwest Ordinance did and require it. ABC parents should be free to place their children in day care centers of excellence that are friendly to and encouraging of their faith not hostile to it. As Arkansans we are a religiously friendly state and we by in large share many of the same values and beliefs regardless of the name on the church we attend or do not attend. Our ABC day care centers should be a reflection of this. Please reconsider Section 23 to alter its contents so that it is friendly to the citizens it serves.</p>	
3/1/12	Rankin and Dorothy Kennedy	<p>We should have freedom to express our Christian believes that our government was founded on. The Bible teaches virtues the children and staff should practice. Please consider my request to allow Bible teaching in school .</p>	<p>The proposed rule only prohibits using public funds for Bible teaching; it does not prohibit privately supported Bible teaching in preschool programs.</p> <p>Under the United States Constitution, the Arkansas Department of Education has no authority to adopt a rule allowing public funds to be used for Bible teaching.</p>
3/6/12	Deborah Wright (Executive	As written this rule appears to affect regular ABC budget	The proposed rule's spending limitations apply to all ABC

Arkansas Better Chance Program Proposed Rules – Public Comment Matrix

	Director, Quality Child Care, Inc.)	items and is confusing to providers. Please make clarification that this is only related to teaching religious content. Please also clarify that no other issues were addressed at this public hearing. Additionally, I would like to volunteer to be apart of any committees organized pertaining to ABC as a voice for the private provider sector. Thank you for allowing us to enrich the lives of children, daily!	expenditures.
2/28/12	Americans United for Separation of Church and State	<p>We have reviewed the proposed additions to the regulations for the Arkansas Better Chance for School Success program. This letter contains Americans United's public comments on those proposed regulations. The proposed regulations, and the FAQ that accompanies and explains those regulations, constitute a mostly effective system for ensuring that religious activity does not occur during the 7-hour ABC program day. We have, however, identified three areas in which the proposed rules should be strengthened, and shall devote our comments to addressing those problem areas.</p> <p><i>Enforcement of funding restrictions and use of ABC funds</i></p> <p>Although the proposed rule purports to limit the use of ABC funds to pay for certain strictly delineated items (see Arkansas Department of Education Rules Governing the Arkansas Better Chance Program, § 23.04.2 (proposed February 13, 2012)), the rules (both currently in force and the proposed additions) do not appear to contain a particularly robust system for enforcing these spending restrictions.¹ The annual grantee financial statements that we have seen only report expenditures related to very broad categories- salaries, transportation, rent, and the like and would only be of limited usefulness for enforcement. Nor do we see any evidence that grantees are required to ensure that ABC funds are not commingled with private funds. Once commingling has occurred, the government becomes reliant upon statistical analysis and other unacceptable accounting tricks to ensure that ABC funds have not been used for religious activities. See <i>Comm. for Pub. Educ. & Religious Liberty v. Nyquist</i>, 413 U.S. 756, 778 (1973) ("[O]ur cases make clear that a mere statistical judgment will not suffice as a guarantee that state funds will not be used to finance religious [activity]."); accord <i>Ams. United for Separation of Church & State v. Prison Fellowship</i></p>	<p><i>Enforcement:</i> The proposed rule imposes specific and detailed expenditure limitations not only to assure that no public funds are spent to support religion, but also to require clearly defined and traceable funding streams. Compliance with the spending restrictions is a condition of participation in the ABC program, so termination awaits any provider that does not promptly correct any noncompliance.</p> <p><i>Use of Funds:</i> We agree that establishment of separate bank accounts is a prudent practice that will simplify monitoring and save auditing time, and will modify the proposed rule accordingly. For the following reasons we do not, however, agree that the proposed rule establishes any statistical allocations or that separate bank accounts are constitutionally mandated.</p> <p>ARKANSAS DEP'T OF ED. RULES GOVERNING THE ARKANSAS BETTER CHANCE PROGRAM, §§ 6.03–4 and 6.08, require that ABC programs use matching (40%) and other funding in addition to ABC public funding. If, for example, the proposed rule had provided that religious activities could take place 40% of the time, a statistical allocation would exist and the commenter's point would be well taken. But such is not the case, because no ABC funds may be used for any religious activities at any time or place, and no religious activities may occur during an ABC day even if the activities are privately funded.</p> <p>The commenter cited three cases in support of this recommendation:</p> <p>(a) <i>Comm. for Pub. Educ. & Religious Liberty v. Nyquist</i>, 413 U.S. 756, 778 (1973);</p> <p>(b) <i>Ams. United for Separation of Church & State</i></p>

Arkansas Better Chance Program Proposed Rules – Public Comment Matrix

	<p><i>Ministries</i>, 432 F. Supp. 2d 862, 923-24 (S.D. Iowa 2006) (refusing to accept state's attempt to show that it only funded non-sectarian activity by using percentages rather than accounting for specific activities); <i>Freedom From Religion Found. v. McCallum</i>, 179 F. Supp. 2d 950, 974 (W.D. Wis. 2002) ("The Supreme Court has systematically rejected attempts to unbundle religious activities through statistics and accounting."). Moreover, the Frequently Asked Questions document that accompanies the proposed rules implies that religious activity supported by ABC funds can occur so long as it occurs outside the program day. See Arkansas Better Chance for School Success Programs Religious Activities Frequently Asked Questions, page 2 ("Accordingly, Arkansas Better Chance for School Success program funds may be used for all of the purposes listed in the proposed addition but not for religious services, religious rituals, or religious instruction provided or carried out as a part of or during an ABC program."). In fact, government funds must not directly support religious services, instruction, or programming <i>at any time</i>, not just for the arbitrarily selected duration of the program. See <i>Mitchell v. Helms</i>, 530 U.S. 793, 840-41, 857, 861 (2000) (O'Connor, J., concurring); <i>Bowen v. Kendrick</i>, 487 U.S. 589,621 (1988); <i>Roemer v. Bd. of Pub. Works</i>, 426 U.S. 736, 754-55 (1976); <i>Hunt v. McNair</i>, 413 U.S. 734, 743 (1973). Indeed, in <i>Tilton v. Richardson</i>, 403 U.S. 672 (1971), the Supreme Court struck down a statutory enforcement provision because it set an arbitrary time-limit of twenty years on the government's ability to prohibit religious activities in a building constructed by government funds. <i>Id.</i> at 683. Together, these issues result in a serious problem with the proposed rule: it does not provide a way to track precisely what ABC funds are being spent on, and it may give grantees the impression that ABC funds can be used to provide infrastructure and support for the grantees' religious programming that occurs outside the school day. Religious programming must be financed only by private funding and not by government funding. For illustrative purposes, imagine a pre-school program that operates solely with ABC funding the government pays all operating expenses and the program has no private funding. Such a school cannot legally engage in</p>	<p><i>v. Prison Fellowship Ministries</i>, 432 F.Supp.2d 862, 923-24 (S.D. Iowa.2006), <i>aff'd</i> in part and <i>rev'd</i> in part, 509 F.3d 406 (8th Cir. 2007); and</p> <p>(c) <i>Freedom From Religion Found. v. McCallum</i>, 179 F. Supp.2d 950, 974 (W.D. Wis. 2002).</p> <p><i>Nyquist</i> invalidated a New York law that paid public funds to parochial schools for school facility maintenance and repair (including heat, light, and water), capped at 50% of the average per-pupil cost in public schools. The Supreme Court ruled that while incidental and indirect benefits to religion do not offend the Constitution, states must not engage in "sponsorship, financial support, and active involvement of the sovereign in religious activity." 413 U.S. at 771. In direct response to <i>Nyquist</i>, the proposed rule creates redundant safeguards that make it impossible to reasonably conclude that the state is sponsoring, financially supporting, or is actively involved in, religion.</p> <p>Pointing to page 778 of the <i>Nyquist</i> opinion, the commenter focused on the 50% cap for maintenance payments. Allocating payments at 50% of the per-pupil costs in public schools was a statistical judgment that at least 50% of the teaching at parochial schools was secular, and thus could be supported with public funds. The Supreme Court, however, determined that the statistical allocation did not assure that public funds will not be used to support religion. 413 U.S. at 778. Critically: (a) fund co-mingling was not the issue; and (b) unlike the New York arrangement, the proposed rule does not rely on any statistical allocation, and instead imposes an absolute bar on the use of public funds for any religious activity.</p> <p>In <i>Prison Fellowship Ministries</i>, Iowa contracted with a religious organization to provide a mix of sectarian and secular services to prison inmates. As in <i>Nyquist</i>, Iowa used a fixed percentage to statistically allocate Prison Fellowship Ministries' staff time between secular (state paid) time and sectarian (non-state paid) time. On appeal, the Eighth Circuit Court of Appeals ruled that because Iowa did not monitor Prison Fellowship</p>
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Arkansas Better Chance Program Proposed Rules – Public Comment Matrix

		<p>religious activity no matter if it occurs outside of the "ABC program day" or not, because everything that the school does is funded and directly supported by the government. See, e.g., <i>Mitchell</i>, 530 U.S. at 840-41, 857, 861 (O'Connor, J., concurring); <i>Tilton</i>, 403 U.S. at 683-84; <i>Cnty. House, Inc. v. City of Boise</i>, 490 F.3d 1041, 1056-59 (9th Cir. 2007). This problem is easy to fix. Retain the existing rule prohibiting religious activity as part of any ABC program or during the ABC program day, but add a rule clarifying that ABC funds must not be used to directly support religious activity, even if that activity occurs outside the formal bounds of the ABC program or outside the ABC program day. Further, add a new rule that requires that ABC funds be kept in a separate bank account, apart from any private funds. This will make it possible to directly track what ABC funds pay for and, thus, to determine whether ABC funds are improperly used to pay for religious activity .2 Such a requirement would also resolve our hypothetical situation above, because it would be abundantly clear that the preschool in question did not have the private funds available to pay for its religious activities This rule will also have the virtue of being an easy requirement to apply to all ABC grantees, and not just faith-based grantees, thus avoiding any question about whether faith-based grantees are being treated differently. and that ABC funds were being used improperly. You would also be less reliant upon someone filing a complaint, because violations would likely be apparent during the annual audit.</p> <p><i>Religious Iconography</i></p> <p>The proposed rule apparently allows religious iconography to remain on the walls of faith-based grantee pre-schools. Though this does not appear in the proposed rule itself, it is stated directly in the F AQ that accompanies the rule. Specifically, the F AQ states that the government may not condition the receipt of government funds on the removal of religious iconography from private premises, and that government programs can operate with visible iconography. The only legal authority cited for these propositions is a passage from <i>Agostini v. Felton</i>, 521 U.S. 203 (1997), which you appear to cite here for the proposition that the government cannot deny aid to a religious organization</p>	<p>Ministries' use of public funds, the court would not apply the legal presumption of compliance with secular restrictions. ("In the absence of evidence to the contrary, we assumed instead that the [publicly-paid] interpreter [assigned to a parochial school] would dutifully discharge her responsibilities as a full-time public employee and comply with the ethical guidelines of her profession by accurately translating what was said.") <i>Agostini v. Felton</i>, 521 U.S. 203, 223-24 (1997).</p> <p>Existing ABC rules clearly state that the Arkansas Better Chance ("ABC") program is a 7-hour daily preschool program. ARKANSAS DEP'T OF ED. RULES GOVERNING THE ARKANSAS BETTER CHANCE PROGRAM, §§ 9.06; 13.07-8; and 13.12. Under the proposed rule, 100% of ABC time will be secular; 0% will be sectarian. The absence of secular/sectarian statistical allocations undermines any comparison with <i>Prison Fellowship Ministries</i>.</p> <p>In <i>Freedom From Religion Foundation</i>, Wisconsin hired Faith Works, a faith-based drug and alcohol treatment provider, to counsel Wisconsin Department of Correction inmates. Counselors' time was allocated 80% to secular activities; however, counselors engaged "in religious counseling on an 'as needed' basis." 179 F. Supp. 2d at 973. "Moreover, counselors are available to discuss issues of spirituality at any time." <i>Id.</i> The court ruled that this ill-defined and unstructured intermingling of secular and sectarian activities made it impossible "to conclude that the counselors' duties are 80% religion-free. It follows that the religious responsibilities of the counselors cannot be estimated and distinguished from the job responsibilities that are publicly funded." <i>Id.</i> In stark contrast to the Wisconsin arrangement, the proposed rule prevents any such intermingling by forbidding ABC teachers from engaging in religious counseling or discussing spiritual issues at any time during any ABC program.</p> <p>Faith Works attempted to overcome its main obstacle – the impossibility of determining when counselors are engaging in religious activities – by asserting that it received sufficient private funds to pay its counselors. The court was not persuaded, because</p>
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Arkansas Better Chance Program Proposed Rules – Public Comment Matrix

	<p>for a discriminatory reason. <i>Id.</i> at 231. But <i>Agostini</i> dealt with a program that sent public-school teachers onto campuses of private schools - some of which were religious schools to teach wholly secular materials to the private school students. <i>Id.</i> at 208-14. The case does not hold that the government cannot regulate its programs to ensure that they do not violate the Establishment Clause. Indeed, the program in <i>Agostini</i> was subject to extensive regulation to ensure that the program remained secular, <i>including</i> a requirement that "[a]ll religious symbols were to be removed from classrooms used for Title I services." <i>Id.</i> at 211-12. The courts commonly consider the presence of visible religious iconography as a major factor in determining the constitutionality of a government program operated on or within private religious property. <i>Compare Spacco v. Bridgewater Sch. Dep 't</i>, 722 F. Supp. 834, 842 (D. Mass. 1989) (granting preliminary injunction to plaintiffs assigned to public-school facility leased from Roman Catholic Church, despite fact that religious symbols were covered in classrooms, because students could not avoid several large crosses outside building that impermissibly linked public school to Church), <i>and Musgrove v. Brevard Cnty. Sch. Bd.</i>, 608 F. Supp. 2d 1303, 1305 (M.D. Fla. 2005) (concluding that public-school graduation ceremonies in a church with large visible cross would be unconstitutional), <i>with Walker v. SF. Unified Sch. Dist.</i>, 46 F.3d 1449, 1456 (9th Cir. 1995) (noting, as evidence that mobile classrooms parked on parochial-school property were religiously neutral sites, that units contained no religious symbols); <i>Pulido v. Cavazos</i>, 934 F.2d 912, 919-20 (8th Cir. 1991) (same); <i>Porta v. Klagholz</i>, 19 F. Supp. 2d 290,303 (D.N.J. 1998) (holding that charter school located in church did not violate Establishment Clause because no religious symbols or messages were visible to students inside building, no religious symbols appeared on exterior of building, and charter-school students had separate entrance that did not require them to pass sign for church); <i>Thomas v. Schmidt</i>, 397 F. Supp. 203, 207 (D.R.I. 1975) (noting as evidence of religious neutrality that no religious artifacts were displayed in classrooms or corridors of portion of parochial school leased to public school to relieve overcrowding), <i>aff'd mem.</i>, 539 F.2d 701 (1st Cir. 1976). The classroom environment is an</p>	<p>there is no way to excise any activities offending the establishment clause from state funding. The public and private funding that Faith Works receives is deposited into the same account and is not earmarked for one purpose or another. Therefore, it is not accurate for Faith Works to assert that public funding is not used to pay counselor salaries.</p> <p>179 F. Supp. 2d at 974. Co-mingling of funds was an issue only because religious and non-religious activities were co-mingled in ways that made reliable monitoring impossible. ABC, however, is 100% religion-free, eliminating any comparable funding concerns.</p> <p>We disagree that the proposed rule arbitrarily selects ABC program duration. Existing ABC rules define the 7-hour ABC course of preschool instruction, and provide that every student activity – including recesses and meals – are a part of that program. Unlike the prison cases cited by the commenter, the ABC program is a non-residential program that has a clearly defined daily beginning and end.</p> <p>As a condition of ABC participation, providers must use ABC funds “exclusively ... for ... expenses incurred to provide ABC services.” Proposed rule, § 23.04.2. By definition, ABC services cannot exist outside the formal bounds of the ABC program or outside the ABC program day. Any ABC provider who uses ABC funds for any reason other than to provide ABC services is ineligible to continue participating in the ABC program. It is, therefore, clear that the proposed rule prohibits the use of any ABC funds to directly support religious services, instruction, or programming at any time.</p> <p>Additionally, the proposed rule prohibits religious activities during the ABC day regardless of the funding source for such activities. By preventing any comingling of sectarian and secular activities, the proposed rule avoids the problems discussed in <i>Nyquist</i>, <i>Prison Fellowship Ministries</i>, and <i>Freedom From Religion Foundation</i>.</p>
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Arkansas Better Chance Program Proposed Rules – Public Comment Matrix

	<p>integral part of the ABC program. This is evident in the fact that the government already extensively regulates the physical makeup of the preschool classrooms used by ABC grantees. The ABC rules set minimum standards for eligible classrooms using an environmental rating scale (§ 9.05), dictate when classroom partitions make a single-room count as multiple classrooms (§§ 12.04 & 13.02), command that each classroom be stocked with specific items and where those items should be stored (§ 13.03), and set out standards that directly affect the layout of both inside and outside areas (§§ 13.10, 13.11, 13.13). The government regulates the environment in these ways because the physical makeup of the environment and the images and symbols contained therein communicate messages and ideas to the students who are immersed in them. Government programs cannot communicate religious messages, and it is beyond dispute that religious iconography sends a religious message. See <i>Capitol Square Review and Advisory Bd. v. Pinette</i>, 515 U.S. 753, 760 (1995) (holding that Christian cross sends an expressive message); <i>Cnty. of Allegheny v. ACLU</i>, 492 U.S. 573, 598, 600-01 (1989) (finding that creche sends a religious message); <i>W Va. State Bd. of Educ. v. Barnette</i>, 319 U.S. 624, 632 (1943) (noting that "the church speaks through the Cross, the Crucifix, the altar and shrine, and clerical r[e]ligion"). Consequently, the government can no more allow ABC grantees to use religious iconography as a part of the ABC program than it can allow them to conduct Bible lessons or sing religious songs. Again, the fix for this problem is easy: require grantees to cover or remove religious messages or iconography during the ABC day to ensure that the program remains wholly secular.</p> <p><i>Misleading disclaimer</i> Finally, proposed rule 23.04.5 requires that grantees must inform parents and guardians in writing that "no religious activity will be paid or subsidized by public funds or occur in any manner suggesting governmental endorsement of any religion or religious message." This language may incorrectly suggest that religious activity may occur during ABC programming or as part of the ABC program day if it is not financed with public funds. That would be contrary to both the proposed rule and the</p>	<p>The commenter, however, argues that the proposed rule is inadequate, as illustrated by the following hypothetical situation:</p> <p>Imagine a pre-school program that operates solely with ABC funding – the government pays all operating expenses and the program has no private funding. Such a school cannot legally engage in religious activity no matter if it occurs outside of the "ABC program day" or not, because everything that the school does is funded and directly supported by the government.</p> <p>This hypothetical is unrealistic, because:</p> <p>(a) ABC public funds supplement, and do not supplant, other early childhood funding sources, so no ABC program operates solely with ABC funding. See ARKANSAS DEP'T OF ED. RULES GOVERNING THE ABC PROGRAM, § 6.08; and</p> <p>(b) As explained elsewhere, ABC funds cannot be used for capital expenses or certain other costs that ABC providers necessarily incur to keep the doors open, so non-public funding sources are a given.</p> <p>That aside, the commenter appears to assume that all religious activities are paid, and that no volunteer leads or participates in religious activities. In fact, one of two things must be true with respect to the hypothetical: (a) the provider diverts ABC funds to pay for after-program religious activities; or (b) the religious activities are unpaid. If ABC funds are used, the provider is in violation of a condition of ABC program participation, is no longer eligible to receive ABC funds, and any Establishment Clause violation is corrected. If the religious activities are unpaid, then the activities are not publicly supported, and there is no Establishment Clause violation.</p>
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Arkansas Better Chance Program Proposed Rules – Public Comment Matrix

		<p>Constitution. As noted above, government-funded programs must not include religious activities, and the courts have repeatedly rejected arguments that religious components can be included in state-sponsored programs if statistics or accounting are used to allocate the cost of those components to private funding. See <i>Nyquist</i>, 413 U.S. at 778-80; <i>Prison Fellowship</i>, 432 F. Supp. 2d at 923-24; <i>McCallum</i>, 179 F. Supp. 2d at 974.</p>	<p>ABC programs must have written agreements with teachers and paraprofessionals. Arkansas Dept. of Ed. Rules Governing the Arkansas Better Chance Program, § 11.13. Agreements must state the rate and frequency of pay, working days per year, working hours per day, and specific duties. <i>Id.</i> Consequently, ABC funding is traceable. For example, assume that a provider-teacher agreement sets the teacher’s salary at \$15 per hour and requires the teacher to lead one hour of religious activities daily. If an audit shows that the teacher’s gross pay is \$120 on any day, ABC funds are being diverted to religious activities and correction or enforcement (termination from the ABC program) will follow.</p> <p>Compare that to another contract at the same pay. An audit shows that the teacher’s gross pay is \$105 per day, but the teacher, as a condition of employment, must lead 1 hour of religious activities after each ABC day without pay. In the second example, the teacher’s decision to take the job means that he or she “volunteers” to lead religious activities. Even if the teacher feels coerced to accept the “take it or leave it” offer:</p> <ul style="list-style-type: none"> (a) Neither the teacher nor the provider receives any public support for religious activities; and (b) The decision to accept the conditions of employment is a personal decision made by the teacher; no state action is involved. <p>An Establishment Clause violation does not exist unless it is “fair to say that the <i>government itself</i> has advanced religion through its own activities and influence.” <i>Mitchell v. Helms</i>, 530 U.S. 793, 809 (2000) (O’Connor, J., concurring) (Emphasis in original, citation omitted). Thus, some state action supporting religious activity must exist before the Establishment Clause is implicated. <i>Id.</i> (citations omitted).</p> <p>It is not enough to point to secular public aid received earlier in the day and argue that the government aid was a catalyst for attendance at a subsequent religious activity. In <i>Good News Club v. Milford Central School</i>,</p>
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Arkansas Better Chance Program Proposed Rules – Public Comment Matrix

			<p>533 U.S. 98 (2001), a public school denied the Good News Club’s application to conduct activities, including religious activities, at the public school after class. The Supreme Court held that: (a) the denial violated the Free Speech Clause; and (b) the after school meetings posed no threat of an Establishment Clause violation. “[W]e have never extended our Establishment Clause jurisprudence to foreclose private religious conduct during nonschool hours merely because it takes place on school premises where elementary school children may be present.” 533 U.S. at 113.</p> <p>The commenter cites three cases in support of this comment:</p> <p>(a) <i>Mitchell v. Helms</i>, 530 U.S. 793, 840-41, 857, 861 (2000) (O’Connor, J., concurring);</p> <p>(b) <i>Tilton v. Richardson</i>, 403 U.S. 672, 683-84 (1971); and</p> <p>(c) <i>Cnty. House, Inc. v. City of Boise</i>, 490 F.3d 1041, 1056-59 (9th Cir. 2007).</p> <p><i>Mitchell</i> concerned a Louisiana law under which the state channels public funds to local education agencies that use the funds to purchase, among other things, secular educational and reference materials, which the agencies then loan to pervasively sectarian schools. <i>Mitchell</i> rejected an Establishment Clause challenge to the law, holding that “the question whether governmental aid to religious schools results in governmental indoctrination is ultimately a question whether any religious indoctrination that occurs in those schools could reasonably be attributed to governmental action.” 530 U.S. at 809 (citations omitted). (Emphasis in original, citation omitted.)</p> <p>Accordingly:</p> <p>When a religious school receives textbooks or instructional materials and equipment lent with secular restrictions, the school’s teachers need not refrain</p>
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			<p>from teaching religion altogether. Rather, the instructors need only ensure that any such religious teaching is done without the instructional aids provided by the government.</p> <p>530 U.S. at 859 (O’Connor, J., concurring). <i>Mitchell</i>, therefore, flatly contradicts any suggestion that ABC teachers must refrain from teaching religion altogether.</p> <p><i>Mitchell</i> also identified three public spending limitations that assure Constitutional compliance:</p> <ul style="list-style-type: none"> (a) Limit public aid to secular services, materials, and equipment; (b) Prohibit any public payment for religious worship or instruction; and (c) Require signed assurances of compliance. 530 U.S. at 861-2. <p>The proposed rule imposes all these limitations, and otherwise satisfies all <i>Mitchell</i> tests for constitutional compliance.</p> <p>Justice O’Connor’s concurring <i>Mitchell</i> opinion distinguishes the Supreme Court’s opinion in <i>Sch. Dist. of the City of Grand Rapids v. Ball</i>, 473 U.S. 373 (1985) (overruled by <i>Agostini</i>). In that case, Grand Rapids paid for after-school classes to supplement parochial school curricula. Teachers who had just completed a day devoted to carrying out the school’s religious mission taught the classes, causing Justice O’Connor to presume that: (a) the day’s religious teaching would not end abruptly, but rather, would bleed into the supplemental classes; and (b) because the supplemental classes were entirely paid for by public funds, the carry-over religious teaching would result in governmental religious indoctrination:</p> <p>[In <i>Ball</i>] I was willing to presume that the religious school teacher who works throughout the day to advance the</p>
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			<p>school's religious mission would also do so, at least to some extent, during the [publicly financed] supplemental classes provided at the end of the day. Because the government financed the entirety of such classes, any religious indoctrination taking place therein would be directly attributable to the government.</p> <p>530 U.S. at 860.</p> <p>The Establishment Clause is not offended if teachers continue to convey secular information during after-school religious activities, so <i>Ball</i> is the precise opposite of this matter.</p> <p>Activities that occur outside the ABC day are not government-sponsored. As <i>Mitchell</i> explains, the question is whether the government itself advances religion through its own activities and influence, not whether others advance religion before or after some separate government-supported activity. <i>Mitchell</i> and <i>Agostini</i> illustrate that point: both cases concerned public aid to parochial schools that carried out religious instruction and activities to a captive audience throughout the regular school day, under circumstances creating far more potential for indirect government aid to religion than is possible under the proposed rule. Nevertheless, both cases held that such public aid to a sectarian organization is permissible if: (a) publicly employed teachers do not attempt to inculcate religion; 2) public aid is made available to both religious and secular beneficiaries on a nondiscriminatory basis; and 3) public aid is available to all eligible children regardless of their religious beliefs or where they attend school. <i>Agostini</i>, 521 U.S. at 205. Under the proposed rule, public aid provided to ABC programs would meet these conditions.</p> <p><i>Tilton</i> concerned the Higher Education Facilities Act of 1963 ("Act"). The Act provided grants to church-related colleges and universities to construct academic facilities, and limited the facilities' uses to secular purposes. Though the grants themselves were permissible, the Act went on to say that the secular-use limitation expired after</p>
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			<p>20 years, creating the probability that publicly funded buildings of considerable value would be converted to religious use. We agree that the government may not build a physical plant and subsequently donate that capital investment for religious uses. No similar danger exists in the ABC program, because the proposed rule limits ABC expenditures to non-capital expenditures.</p> <p>Taken together, the prohibitions against any capital expenditures – or any expenditure outside the formal bounds of the ABC program – render <i>Tilton</i> inapplicable. <i>Tilton</i> does, however, teach that the Establishment Clause is no bar to the provision of public assistance to religious institutions if that assistance is limited to secular purposes.</p> <p>In <i>Community House</i>, the City of Boise leased a homeless shelter worth at least \$2.5 million to Boise Rescue Mission Ministries (“Ministries”) for \$1 per year. Ministries conducted daily religious activities as part of its shelter operations. The net effect was reminiscent of <i>Tilton</i>: the government in effect donated a building for religious activities. Predictably, the Ninth Circuit Court of Appeals determined that the arrangement constituted an actual diversion of secular government aid to religious indoctrination in violation of the Establishment Clause.</p> <p>Because the proposed rule does not allow ABC funds to be diverted to any purpose other than ABC secular educational services, no circumstance resembling <i>Community House</i> is possible with respect to the ABC program.</p> <p><i>Religious Iconography</i>: We agree that providers may not use religious iconography as a part of the ABC program. To that end:</p> <p>(a) Section 23.03.2 defines “instructional materials” as “any tangible thing, such as a ... poster, picture ... object ... display; or image ... that an ABC provider uses to impart knowledge during an ABC day.” Section 23.04.3 requires that all instructional materials be “secular and neutral with respect to religion.” Taken together,</p>
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			<p>these two provisions prevent the use of religious messages or iconography during the ABC day; and</p> <p>(b) The FAQ states that “the Establishment Clause prohibits using such religious material or symbols for religious instruction or observance during as a part of any government-funded program, including ABC.”</p> <p>Accordingly, the proposed rule complies with the Establishment Clause, which “focuses on the manner of <i>use</i> to which materials are put; it does not focus on the content of the materials <i>per se</i>.” <i>Roberts v. Madigan</i>, 921 F.2d 1047, 1055 (10th Cir. 1990) (emphasis in original). Additionally, the proposed rule is consistent with 45 C.F.R. §§ 87.1(d) and 87.2(d), which provide that:</p> <p>A religious organization that participates in the Department-funded programs or services will retain its independence from Federal, State, and local governments, and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct financial assistance from the Department to support any inherently religious activities, such as worship, religious instruction, or proselytization. Among other things, a faith-based organization that receives financial assistance from the Department may use space in its facilities without removing religious art, icons, scriptures, or other religious symbols.</p> <p><i>Misleading Disclaimer:</i> The challenged statement is not a disclaimer, but rather, a notice. To read the notice as suggesting that privately-funded religious activities may occur during the ABC day, the reader must ignore the proviso that “no religious activity ... [will] ... occur in any manner suggesting governmental endorsement of any religion or religious message.” However, the statement must be read as a whole. <i>Grayned v. City of Rockford</i>,</p>
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Arkansas Better Chance Program Proposed Rules – Public Comment Matrix

			<p>408 U.S. 104, 110 (1972). Read as a whole, the notice does not support the commenter's concern. For the sake of clarity, however, we will amend the statement as follows:</p> <p>23.04.5 Each ABC provider must maintain documentation that it has provided parents and guardians the following written notice:</p> <p>To assure that no religious activity is paid or subsidized by public funds or occurs in any manner suggesting governmental endorsement of any religion or religious message:</p> <p>(a) ABC funds must be used exclusively to support allowable ABC program costs incurred to provide non-religious instruction and activities during the ABC day; and</p> <p>(b) No religious activity may occur during any ABC day regardless of the source of funds used to support the activity.</p>
3/6/12	Karen Marshall (Arkansas Child Care Providers' Association)	As written this rule appears to affect regular ABC budgets and is confusing to providers. Please clarify that this is only related to programs who have instructors who specifically teach religious content.	See response to comment filed on 3/6/12 by Deborah Wright.
3/7/12	Elaine Turley	<p>The past few weeks I have been hearing and reading with interest the development of the rules regarding ABC day cares in our state. I was very concerned when I first heard about an inspection and reprimand of an ABC Day Care. It seemed the General Assembly and the Department of Education were at odds over the intent of the parameters of the centers.</p> <p>I understand that when a facility receives public monies it is subject to the governing authorities mandates. But the ABC rules speak in Section 23 that its purpose is to</p>	<p>See response to comment filed on 2/13/12 by Linda Ferguson.</p> <p>See response to comment filed on 2/28/12 by Teresa Fine.</p> <p>Parents are free to choose faith-based preschool programs, with the understanding that public funds may not directly support religious activities taking place at such programs.</p>

		<p>uphold the first amendment in regard to religion. Section 23.01 Purpose: "To assure that public funds are spent in compliance with U.S. Const. Amend. I, which prohibits any state or federal "law respecting an establishment of religion, or prohibiting the free exercise thereof."" There is no mention of the other first amendment rights of freedom of speech, freedom of press, the right to peaceably assemble, and the right to petition the government for redress of grievances. In section Section 23.03.4 "Religious activities" means, without limitation, religious services, prayer, religious rituals, or religious instruction provided or carried out by or under the authority of the ABC program." and then in Section 23.04.5 it states that "Each ABC provider that also offers religious activities must maintain documentation that it has informed parents and guardians in writing that no religious activity will be paid or subsidized by public funds or occur in any manner suggesting governmental endorsement of any religion or religious message." If an ABC provider wants to have a Bible story or prayer before a meal and the parents and/or guardians know this is done and have been informed then this entire thing is a moot point. I do not see how a prayer before a meal or the telling of a Bible story in any way 'establishes a religion', in fact, it denies me and my children/grandchildren the freedom to exercise our right. Our state and federal governments have a prayer each day before each session.....</p> <p>If we truly want to give our children and grandchildren a better chance in life we should take some very old advice and allow the free exercise of religion in these ABC Day Cares. ABC parents should be free to place their children in day care centers of excellence that are friendly to and encouraging of their faith not hostile to it. As Arkansans we are a religiously friendly state and we by in large share many of the same values and beliefs regardless of the name on the church we attend or do not attend. Our ABC day care centers should be a reflection of this.</p> <p>Please reconsider Section 23 to alter its contents so that it is friendly to the citizens it serves.</p>	<p>No one is asked to refrain from practicing his or her religion, or to refrain from personal prayer before a meal. The proposed rule is directed solely at publicly funded religious activities – including leading an assemblage in prayer – <i>carried out under the authority of an ABC program.</i></p>
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Arkansas Better Chance Program Proposed Rules – Public Comment Matrix

<p>3/6/12</p>	<p>Donna Schillinger</p>	<p>Yes. So I easily have an hour, right? My name is Donna Schillinger. I'm a parent of one of the beneficiaries of the ABC program in Clarksville, Arkansas, under the direction of His Little Lambs. Where is the Board? Are they not here? Okay. Well, Esteemed Members of the State Board of Education and everyone else, the proposed new rules in Section 23 are not only a poorly contemplated over-reaction to a simple complaint, they are also an infringement on the same First Amendment which they are intended to address. Americans United for the Separation of Church and State, which I will refer to as Americans United from hereon, complained that Growing God's Kingdom, Open Arms and Noah's Ark preschools violate the First Amendment to the constitution in that they incorporate daily time for prayer and Bible study despite being publicly-funded partially through the ABC program. They asserted, and I quote, "While DHS reviews the situation, government funds continue to unconstitutionally flow to these three religious preschools," end-quote. Despite that this small special interest group did not claim to be acting on any complaints from citizens of Arkansas, this group has asked DHS to, quote, "Advise us of your plans and update us on" -- quote -- "when we can expect the Department of Human Services to take action on this matter." I would like to point out that Americans United is no judge of what is or is not constitutional. Particularly in complex First Amendment issues, it is ultimately the Supreme Court which deems an action unconstitutional. Secondly, the Department of Human Services is in no way accountable to Americans United. Finally, Americans United has no legal standing in this matter and is therefore at best in a position to inform and request but not to, quote, "expect or be advised or demand" anything. Any concern about litigation initiated by Americans United is largely unfounded as there has not been an ABC program First Amendment right violation report or a complaint by anyone with legal standing. Nonetheless, their request that DHS investigate seems reasonable. Also reasonable is the suggestion that, quote, "these preschools alter implementation," end-quote, to bring them into compliance with the First Amendment or that their grants be terminated or that they sign agreements guaranteeing that religion will not</p>	<p>See responses to previous comment.</p> <p>In <i>Sherbert v. Verner</i>, 374 U.S. 398 (1963), the Supreme Court invoked the Free Exercise Clause to overturn a South Carolina law that denied unemployment compensation to a Seventh-day Adventist, who, because of her religion, declined to work on her Sabbath. In stark contrast to the facts in <i>Sherbert</i>, the proposed rule does not deny any public benefit on the basis of a specific religious belief; instead, it provides that public funds cannot be used to directly support religion. Stated another way, the proposed rule does not ask any individual to refrain from practicing his or her religion as a <i>condition of receiving public benefits</i>, but rather, prohibits using public benefits to <i>finance the practice of religion</i>.</p> <p>(Note: In <i>Employment Div., Dep't of Human Res. v. Smith</i>, 494 U.S. 872 (1990), the Supreme Court held that the First Amendment "right of free exercise [of religion] does not relieve an individual of the obligation to comply with a valid and neutral law of general applicability on the ground that the law proscribes (or prescribes) conduct that his religion prescribes (or proscribes)." <i>Id.</i> at 879 (quotations omitted). In reaching this holding, the Supreme Court effectively rejected the rule of <i>Sherbert v. Verner</i>, 374 U.S. 398 (1963), that "governmental actions that substantially burden a religious practice must be justified by a compelling governmental interest"). See <i>In re Young</i>, 141 F.3d 854, 857 (8th Cir. 1998).)</p>
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Arkansas Better Chance Program Proposed Rules – Public Comment Matrix

		<p>be injected into government-supported programming, with some monitoring agreements. Those were the three things that they asked for in their letters. What I find unreasonable is the response of DHS which went far beyond the actual request of Americans United. Instead of addressing the three programs in question, DHS is proposing a blanket policy which among other things prohibits, quote, "all religious activity," end-quote, during the ABC day. I imagine Americans United would be quite pleased with this response and will certainly get off your back. However, if a couple of letters from an organization not claiming to have legal standing in this matter caused this kind of concern, what kind of trepidation will result when the Board passes a rule that compromises the constitutional mandate for government to remain neutral regarding religion and arguably infringes on the religious freedom of hundreds of parents and providers who actually do have legal standing in this matter? It is my opinion, which I fully intend to test in court if given due-cause, that a ruling that states no religious activity during the seven hours of my child's preschool day, including the portion in which I am with him volunteering at the program to provide part of the parent and community involvement required by the agency program, is untenable without invasive government control to enforce. It permits conduct required by my religious beliefs, specifically to bring up a child in the discipline and instruction of the Lord (Ephesians 6:4). It constitutes an intentional interference by government and therefore is subject to the most legal strict scrutiny. And it is a coercion causing me to have to choose between receiving benefits and following my religion, a burden on freedom of religion which the Supreme Court has ruled in Sherbert v. Verner to be unconstitutional. As this rule is proposed, I will be prohibited from praying with my son before he eats breakfast, an activity of the ABC program day. There is no room for religious freedom in the phrase "no religious activity," which happens to be Section 23.04.4 of the proposed rule. For as many precedents as Americans United cited to address the violations they perceive, there are an equal number of compelling precedents for not accepting this proposed rule, such as Agustin v. Fulton, Wisconsin v. Yoder, Sherbert v. Verner, and more, which I will expound on in my written comment</p>	
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Arkansas Better Chance Program Proposed Rules – Public Comment Matrix

		<p>to the Board. I'm not a member of the Americans United but I value separation of church and state as well. I do not disagree that certain items on the daily calendars of the three schools mentioned in the Americans United letter seem problematic, but there are a number of ways these could be addressed without infringing on the religious freedom of ABC beneficiaries and providers. I urge the Board to reject the proposed rule and, number one, address purported violations with the specific centers in which these activities may be occurring; and number two, to continue to preserve religious freedom by completely abstaining from developing a rule on religion. There hasn't been one since the inception of the program. If there wasn't a problem, why fix it? However, should the Board deem one truly necessary I urge you to engage a constitutional lawyer with values and a disposition on these matters similar to that of the citizens of this state to craft a rule that addresses both clauses of the First Amendment, "No establishment of religion by government" and "protection of the free exercise of religion." Thank you.</p>	
<p>3/6/12</p>	<p>Representative Justin Harris</p>	<p>Thank you, and thank you for having us this morning. I must say I have to apologize; our attorney from Alliance Defense Fund could not make it here. He's obviously an out-of- state attorney. And we received the notification late Thursday afternoon and so I was in session and my wife was at home and we just didn't coordinate until I got home on Friday. So, we did not have time to get everything together. But I want to tell you why I'm standing here today; it's a simple principle. I'm standing here today for my children, my three boys, our adopted two girls that's getting ready to come into the family; then I'm also speaking today for 168 children that come to Growing God's Kingdom; then I speak for the people in my district, 30,000 people; then I want to speak also for all the children in the State of Arkansas. This is a time when just by me saying I was coming down here this morning and the three hours it took to get here the hatred that fueled up this morning on Twitter-land and different areas is amazing. And I think we've got to be careful in the ABC rule change that we are not over-reaching, we are not discriminating against anyone. So we go from this rule -- we started in 2003 in our garage</p>	<p>See responses to comments filed on 3/17/12 by Elaine Turley.</p>

Arkansas Better Chance Program Proposed Rules – Public Comment Matrix

		<p>with 12 students, three being our own. We were not an ABC program. Then, two years later we became an ABC program after hearing from another fellow provider and we decided we wanted to make a big difference. Having degrees from the University of Arkansas, we decided to open up a preschool that could service people who truly were in need and children who were in need. So 110 of those children come to our preschool. They come from all walks of life and we have always had them sign a waiver saying that they understood that they would be taught Christian beliefs during the day. There were no rules in place so we weren't breaking any constitutional rule to our knowledge. Mind you, I am not an attorney and I'm very proud to not be an attorney, but I am an early childhood educator. And I will tell you when we -- what we were doing during the day -- and it's kind of been misconstrued in the media and in different places by lovely bloggers --we had a 10-minute-a-day reading a Bible story. It wasn't even a teaching; it was reading a Bible story, which often consisted of love and loving each other. Never in that time did we use it to indoctrinate children 'cause I don't believe birth to five really would understand all that. But what we did teach was love and it was very simple, "you use your words, not your hands," just simple stuff; love your neighbor, The Good Samaritan. Those are good stories. But what we found today because of one group that came into the State of Arkansas -- and I understand this is another reason why it's far-reaching; if I had never run for State Representative, if I had never won, this would not be an issue at this time. Now it would have been an issue further down the road but because of it, it has made it come faster. That is-- that is a given knowledge; we've got paper trails of that. And so I want us to be careful that just because we make an exception for one group, United for Separation for Church and State [sic], that we be careful when we have another big group come in that wants to make sure that religious freedoms are allowed in the State of Arkansas. And so we've got to be careful. And I just want to make it clear, one thing that these rules -- Marsha and I had understood that we were no longer going to be teaching Bible during the day and were -- you know -- that's --that's one core of the day. We knew we were helping low-income families; we knew that parents</p>	
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Arkansas Better Chance Program Proposed Rules – Public Comment Matrix

		<p>don't get off at 3:00 or 2:30, in which our hours consisted. So we had the hours of ABC from 7:30 to 3:30, an eight-hour day, which we did not have to have. And during that time for 10-minutes we taught – we didn't teach, I want to make that clear -- we read Bible stories and sung Jesus Loves Me or just different songs that just were part of transitions. And because of that, we had to shorten our day now. But instead of hurting families, we decided to take that hour from -- I believe it's 2:00 to 3:00. The Department has those scheduled hours. We just allow parents to still come and they're for free, and so we have gotten around it. But here's where my issue went, was the moment -- and I do not blame -- and I want to be very clear today; hopefully, it's been stated but media only takes bits and pieces of what they want to hear -- is that I do not blame DHS for the way this has been orchestrated. I understand it's an outside group coming in and now we're having to play a little bit of defense 'cause we should've played offense in the first place and had things set up. But in this, no monies for my program - - I can't speak for others in the state but from Growing God's Kingdom -- did monies go towards buying Christian instructional material. Matter of fact, not only -- our program doesn't only have to do a state audit; we now have to do a federal audit, and so we've been looked at. Every year we've done an audit; things have been looked at. We have five different organizations, including Arkansas State University, that comes into our program and we have some of the highest scores in the State of Arkansas. And the teachers in our area seek out for the children that come from Growing God's Kingdom Preschool 'cause they know they're going to be far ahead of the curve, of other children because we believe in teaching children to get them prepared for either public school, private school, home-school, whatever it may be, and that is our job and I feel like we've done it. But what you've done now is kind of put these Christian organizations, which many are in churches, into a certain box and these rules have kind of been far-reaching. And anyone that is in this knows that we have to do the -- we choose the creative curriculum, which our teachers have their P4 licensure or their child development degree – not associates but their degree; they know how to teach. So we have this curriculum that we have to to get scores to</p>	
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Arkansas Better Chance Program Proposed Rules – Public Comment Matrix

		<p>continue to have ABC funding into our school. We have to have posters. The pictures that you see up here on this wall is a prime example of what we have to have in our classrooms. We have to have books that are multicultural, all walks of life; we have to show them in their element. So if they're in India or wherever they may -- China -- we know that China doesn't have a Christian nation, that's a given, but we still have to have pictures of them. We have to do different things. We have to have books that explain all walks of life. But what I was told -- and I think there's going to have to be clarification in these rules -- and we -- this is not the end-all right here, this public comment period, nor the Board of Education is the end-all. It has to go before legislative review. But I was told that we could pray but we can't pray in the name of Jesus, any particular religion. I was also told we can't sing Christian songs anymore but we are required to sing songs for transitions. We're required to do these things, yet now we can't say the name of Jesus; we can't invoke God; we can't sing Jesus Loves Me going down the hallway. I know there's more -- Noah Built an Ark -- I mean, there's a whole lot more that we could sing but we can't sing those anymore. And so what you've done is you've taken the right from the parent who has chosen to come to our preschool. You've taken their right away because they have chosen a faith-based preschool and now that has been taken away from them. And so I think we've got to be careful and we need to look at these parents' rights, which is the avenue I'm going to be going, that we're going to be going, that these parents have a right, especially the way the funding is done in the ABC program. The way it's set up now, by all technicalities, is that it follows the child. If the child doesn't come to the faith-based but goes to the public one that's in the same town, that money goes there. If we can't fill our enrollment, we lose that money. So the money does follow the child. And the other thing that I want to point out -- and my speech wasn't -- I'm not one that has a speech written out and do things; I just kind of talk about what we're going through. But the fact that we can no longer have Christian music at the preschool, CD's, is appalling. But I have to have rap, which it is clean rap; I have to have country, secular music of all kinds, but you're telling me I have to take the Christian CD's out.</p>	
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Arkansas Better Chance Program Proposed Rules – Public Comment Matrix

		<p>You're taking the rights away from me, you're taking the right from the parent, but you're also taking the right away from the children. And so if I'm wrong, and I'm sure I will be told I'm wrong today in some of my ways I've interpreted the rules, I would like to know and I'm sure I will be told. But I think it goes back to -- there was another preschool that was actually gone to and told them to take the things off the wall, and I have evidence of that. Yet, my preschool program was told they could keep their things on the wall. And so I think we're going to have to be careful about the interpretations of the rules, who comes in and monitors these programs and is it going to be a loose interpretation. But I will tell you -- and it was done in the Board of Education -- that there may be some legal ramifications from this, so I want you to look at both sides of it and let's -- let's protect freedom of speech; let's protect our rights to -- to say things just as well as another person's right to say things. And I think instead of teaching hate what we've done is we've taught love. And I want to leave you with one last story of a parent who came in with her daughter, who the night before got molested by her biological father -- comes into my office, Marsha and I, in the office; mom is devastated. And instead of talking about it in front of the child we sent the child on to the classroom so they could be with friends and kind of have a normal day as much as it could be for that situation. We sat down with mom, we prayed with her, we hugged her. We called the proper authorities; we're mandated reporters. But because of that, two years later, this girl is functioning well in public school. She does get counseling but mom can always come back to Growing God's Kingdom and say, "You know what? You prayed for me, you loved me, you hugged me, you saved my child's life," and that's the work we do every single day at my preschool and the preschools across the state. It's a safe environment for these children to go to and we're able to comfort them in a way that maybe someone else wouldn't. And I really enjoy doing it and we're thankful to do it and we're not going to stop doing it. We're going to continue to do it. So I ask ABC, Board of Education to look at these rule changes. I'm not a lawyer; I'll make that disclaimer again. I also want to thank the Capitol Police for coming today. It's such a rowdy crowd --and so that's kind of just a joke</p>	
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Arkansas Better Chance Program Proposed Rules – Public Comment Matrix

		there. But thank you and I appreciate y'all listening.	
3/12/12 3/13/12 3/15/12 3/17/12 3/18/12 3/26/12	Rachel Brick Donna Schillinger Jeannie Ritchie Malinda Voreis Teresa Ritchie Rogelio Saldana Jessie Cisco Monica McClure Zulma Saldana Doris Greer Julie Yarbrough Erica Mora Chirs Dickerson Brittany Nichols Will Meeler Brenda Payne Nomie Fraser John Schillinger Penny Hammonds Stacy Hammonds Marilyn Kilcrease Randy Richardson Jettie Bauman Katelyn Blamey Morgan Blamey John Blamey Jamie Blamey Cassidy Anglin Kristen Anglin Courtney Anglin Johnny Anglin Howard Payne Susan C. Wallenburg Cheryl Valliquette Debbie Stephens Unreadable names (2)	<p>I am writing to express my concern for the proposed rule, Section 23, to the Arkansas Better Chance program for preschoolers, which seeks to address the complaint of a Washington DC-based special interest group, Americans United for the Separation of Church and State.</p> <p>In response, the Department of Human Services proposed rule Section 23, which requires instruction materials to be secular (23.04.4); prohibits any religious activity during the seven-hour ABC program day (23.04.4); and requires annual certification of this rule and subjects the preschools to “public inspection and investigation” to guard against any religious activity (23.04.6).</p> <p>In the effort to address Americans United’s complaint, the Department of Human Resources would compromise government neutrality toward religion, put an undue burden on the private citizens involved in this program and become watchdogs against religious activity of any sort during the ABC day. This bureaucratic overcompensation to avoid possible litigation has the unintended effect of inviting litigants who cherish their religious freedom, also protected in the First Amendment. As written, this rule would prohibit a mother from instructing her own child religiously, praying with him before he eats breakfast and reading a Veggie Tales book with him during any part of the ABC day. In short, there is no room for religious freedom in the rule “No religious activity may occur during any ABC day” (23.04.4).</p> <p>Unlike public schools, ABC programs are not an entitlement. ABC is not a free, public program which occurs in a public setting and is carried out by public employees. ABC funding is only for eligible individuals, the setting is private places of business, and instruction is carried out by private employees of those businesses. Further, the owners of these businesses are required to match government funds by at least 40% of their own</p>	<p>The proposed rule is not intended to provide Americans United for Separation of Church and State with any remedy, but rather, to assure compliance with the Constitution.</p> <p>Some principles stated by courts in public school decisions were used in developing the proposed rule, but the specific questions often are different. For example, asking whether a public school may put up a religious display is not the same as asking whether a private preschool must take down a religious display. Where the proposed rule was guided by school-related cases (for example, <i>Mitchell</i>), the focus was on parochial schools because, like ABC programs, those schools are private settings in which the teachers are private employees.</p> <p>The commenter correctly states that the ABC program is only partly supported with public funds; however, this fact does not lessen the force of the Establishment Clause as it governs the use of <i>any</i> public funds. See, e.g., <i>Nyquist</i>, <i>Ams. United for Separation of Church & State</i>, and <i>Freedom From Religion Foundation</i>.</p>

Arkansas Better Chance Program Proposed Rules – Public Comment Matrix

		<p>funds (cash or in kind), and the owners must involve parents and the community in the delivery of the ABC program. Each of these “private” components challenges the applicability of the landmark public schools cases to the ABC program.</p> <p>Consider also that many of the landmark cases on the First Amendment religious establishment clause resulted from a proposed rule or requirement the government had imposed on interested parties. And that is precisely what DHS is proposing with this proposed rule. The State cannot practically or legally govern the nuances of the required 40% match that providers, parents and the community contribute to the ABC program, nor should it attempt to.</p> <p>I urge you not to accept Section 23 in any form, preserving the unregulated freedom of religion which has never been spoken against by any interested party. However if you find it necessary to address this issue with regulation, I urge you to amend the proposed rule to strike Sections 23.04.3, 4, 5 and 6 – those that compromise government neutrality on religion and infringe the religious freedom of providers, participants and members of the community involved in the ABC program.</p>	
3/20/12	Linda Farrell	<p>As an Arkansas taxpayer, retired teacher and passionate defender of the constitutional right to freedom of religion, I am disturbed by the fact that any taxpayer funding has been accorded to the children's daycare center (Growing God's Kingdom) recently in the news and others of similar religious persuasion. Proselytizing to small children is a bad enough idea but to do it at taxpayer expense is unthinkable. How much more clear can the law make the idea that church and state must be separate? There are so many other areas where public funds can be better used for the greater good of education while churches have unlimited opportunities to spread their faith messages. This over-reaching accommodation to Fundamental Christianity in Arkansas can only hurt our efforts to make Arkansas appear progressive to the rest of the country and compete for needed jobs. I also seriously doubt that a school espousing Islam, Judaism or Secular Humanism would</p>	<p>The Supreme Court “has never held that religious institutions are disabled by the First Amendment from participating in publicly sponsored social welfare programs.” <i>Bowen v. Kendrick</i>, 487 U.S. 589, 609 (1988). Rather, government aid must be “allocated on the basis of neutral, secular criteria that neither favor nor disfavor religion” and “made available to both religious and secular beneficiaries on a nondiscriminatory basis.” <i>Agostini</i>, 521 U.S. at 205.</p>

Arkansas Better Chance Program Proposed Rules – Public Comment Matrix

		<p>engender such generosity. Please understand that my battle is not with Christianity or any other faith. It is with showing a clear disregard for the constitution of the United States and Arkansas. Please fix this now so that the lines between public and private schools are more clearly defined and more respect is given to all the taxpayers of this state.</p> <p>Thank you for your kind attention.</p>	
3/20/12	Vivian Michaels (Benton County Democratic Central Committee)	<p>The separation between Church and State should be absolute. No religion, Christian or other, should be able to influence or benefit from what is State and that includes taxpayers' money, i.e. taxes. In my secular opinion it is especially wrong to indoctrinate children who should be allowed to explore everything for themselves including religion. Religious instruction should be funded by churches, or any other religious institution.</p>	See previous comment.
3/20/12	Don Hirschberg	<p>Children as young as these are very vulnerable to being influenced by adults. They think they are expected to comply with what they are told. So I think there should be no religious symbols or instruction what-so-ever. There are plenty of other places for them to be influenced without invoking the State's muscle and money.</p>	See response to comment filed on 3/20/12 by Linda Ferrell.
3/23/12	Teresa Ritchie	<p>In the school systems today we are not allowed to pray or talk about God. Since the daycare where I work is funded by the federal government we are also not allowed to do Bible stories or pray. The ABC Program staff said this was prohibited. We have been doing a Bible story and singing songs once a week with the children as long as I have been doing childcare. The program has been an ABC Program for five years out of 18. Throughout the week we say a little prayer before meals. If we miss these activities the children brings it up, we forgot to pray and they will start praying. The children do not have to sit in these activities. They are allowed to go to a different learning center as long as they are quiet and respect the others that do want to hear the story.</p> <p>Children in this world today are under a lot of pure pressure, broken homes, and poverty. They need some stability in their life and when they get used to a routine it is taken away from them. Some of these children that is all they have to hold onto in knowing that someone loves them and hears the truth of love, honesty and being part of a family. The United States Supreme Court stopped Bible teaching and prayer in</p>	<p>See response to comments filed on 3/1/12 by Rankin and Dorothy Kennedy.</p> <p>Leaving the room during religious activities is conspicuous, especially if there are no other scheduled events, and subjects nonparticipants to both adult and peer pressures encouraging conformity. "[T]he First Amendment prohibits the government from putting children in this difficult position." <i>Berger v. Rensselaer Cent. School Corp.</i>, 982 F.2d 1160, 1170 (7th Cir. 1993). Accordingly, an "opt-out" policy does not remedy Establishment Clause concerns.</p>

Arkansas Better Chance Program Proposed Rules – Public Comment Matrix

		<p>public schools. They are separated schools from churches. In the public schools prayer is being taken out of graduations. Children in public schools have to pray quietly to themselves. Parents are even taken their children out of the public school systems to homeschool and give their children the true values of Christian morals. The government has prohibited that Arkansas Better Chance Programs have no religious activities In their programs. There was a hearing on March 6th in Little Rock, if this passes the program won't even be allow to have a volunteer in the program to do the Bible stories even though we don't pay for the Christian stories. The daycares can't even pray if this law is passed. They won't even be allowed to have Christian faith pictures on the wall. If each preschool teacher keeps on reading Bible stories to their daycare children their funds will be taken away. The children without any stability In their life that are under pure pressure, broken homes, and poverty will have nowhere to go to but stay in the environment they are in, stability in their life. This is all because we are afraid to offend people by our Christian walk. People get offended everyday whether it is Christian or non-Christian. People need to stand up for what they believe in and not back down from biblical values taken out of the Arkansas Better Chance Programs. Children today are exposed to more worldly things then they should be exposed to. They need some good morals in their life. If preschool teachers can give these preschoolers the true values of some hope and love through a Christian story. Why take this out of a government program? Other Christians believes are settling in their own religion. People just have to look at the name of the daycare to see what the name of it means. If people want to enroll their child in the daycare with a Christian name they ought to know what it stands for. Please keep Christianity in the Arkansas Better Chance Programs</p>	
3/23/12	Stan Lancaster	<p>I want to voice support for the changes in the ABC program, and to encourage further amendments to ensure that it is transparent and accountable to the public. How the public funds are used should be public knowledge, as well. When one compares the amount of money dispersed to the number of students involved, it begs clarification. To be true to the spirit of the law, there</p>	<p>The proposed rule prevents any overlap of religious activities with the ABC day.</p>

Arkansas Better Chance Program Proposed Rules – Public Comment Matrix

		<p>should be no overlap of religious activities with the preschool day, and ALL religious materials and scripture should be covered or removed during school hours. Children should have adequate time to leave the premises before religious activity begins. I'm concerned that there is no apparent means by which to enforce compliance, or any penalties for non-compliance. This is troubling to me, as people who consider themselves to be "doing God's work" will constantly push and exceed the limits imposed by laws they hold in contempt. Two of the programs in question are owned by state legislators that surely knew they were non-compliant, but that didn't stop them from accepting funding. I have lived in Arkansas for 60 years. I was raised Southern Baptist, but am not a religious person. I have personally experienced the "tyranny of the majority" in school and social settings where one is expected to go along with religious activities. It is a demeaning experience, and leaves one feeling excluded and demoralized. When well-meaning people fail to see the separation of church and state as the protector of both, our personal freedoms and way of life suffer.</p>	
3/23/12	Claire Gainey	<p>Please don't come up with new rules to satisfy every barking dog or interest group such as Americans for the Separation of Church and State. Strike the Department of Human Services proposed rule: sec 23,04, There are already too many rules that limit our lives to no benefit, and could have unintended consequences.</p> <p>Do your appointed tasks and don't look for extra problems.</p> <p>Sincere hopes for reason and judgment to guide you.</p>	<p>The proposed rule carries out the state's appointed task to see that state-supported activity is not used for religious indoctrination. <i>See Levitt v. Comm. for Pub. Educ. And Religious Liberty</i>, 413 U.S. 472, 480 (1973).</p>
3/26/12	Cheryl Valliquette	<p>I am writing concerning the complaint that the Washington DC based special interest group filed against the ABC programs and other partially government funded schools in Arkansas.</p> <p>I oppose any intrusion on my rights as a United States citizen on my religious freedom to participate in and teach any curriculum I choose without government regulations. My religious freedom is protected by the First Amendment of the Bill of Rights which applies to state governments as well since the passing of the 14th amendment.</p>	<p>The limitations imposed by the rule are designed to restrict the use of public funds, not the practice of religion. The proposed rule does not impair any private religious activity or practice.</p>

Arkansas Better Chance Program Proposed Rules – Public Comment Matrix

		<p>Please do not impose this proposed rule Section 23 on the children of your state. We have enjoyed some religious freedom in Arkansas and do not want to lose any more freedoms that we in America were given by our Founding Fathers.</p> <p>The students are not required to listen or participate. Parents are not required to put their children in these programs that you are seeking to discriminate against.</p> <p>Sincerely, a concerned Citizen of the United States of America and Arkansas</p>	
3/26/12	Cheryl Valliquette	<p>Concerning the proposed rule, Section 23, addressing the complaint from a Washington DC based special interest group, Americans for the Separation of Church and State, I want to express that my religious freedoms are being suppressed.</p> <p>Unlike public schools, the ABC program is held in private businesses and has a match for funds with private citizens and parents.</p> <p>I urge you not to accept Section 23 in any form, preserving the unregulated freedom of religion which the ABC program has enjoyed since its inception, and which has never been spoken against by any interested party.</p> <p>Thank you, Mrs. Cheryl Valliquette, Concerned Citizen of the United States of America</p>	<p>See responses to comments filed on 3/7/12 by Elaine Turley.</p> <p>See responses to comments filed on 3.23.12 by Teresa Ritchie.</p>
3/26/12	Donna Schillinger	<p>My son is a participant in the ABC Program in Clarksville at His Little Lambs, and as an interested party, I am writing to urge you NOT to approve proposed rule Section 23 for the ABC program.</p> <p>In a long history of adjudicating the First Amendment, one thing has become clear: Attempting to regulate religion is unconstitutional. In fact, that’s the whole point of the two-pronged amendment which seeks to keep religion and government in separate domains. Yet Section 23 is similar to many such rules that have been challenged and overturned by the courts, specifically in that it compromises government neutrality between the religious and the secular by forbidding “any religious activity” during the ABC program day. Much farther-reaching than assuring that government resources are not inadvertently promoting religion, this proposed rule as written would regulate the behavior of any person who enters the ABC program place, including children, parents and members of the community. You simply</p>	<p>It is more accurate to view the proposed rule as imposing conditions on the receipt of public funding rather than as regulating behavior. Any preschool provider may reject public funds and ignore the proposed rule.</p> <p>It is also more accurate to view the proposed rule as regulating ABC program activities (regardless of where such activities occur) rather than as regulating personal behavior. The proposed rule is silent about any personal religious practice.</p> <p>The ABC program is not a voucher program, so the judicial decisions regarding such programs do not apply.</p>

Arkansas Better Chance Program Proposed Rules – Public Comment Matrix

		<p>cannot regulate the religious activity of these contingents without infringing on their right to religious freedom. Once you pass this proposed rule, the burden will be on the Board of Education to prove the constitutionality of this proposed rule, whereas in the current unregulated state, the Board has the freedom to address alleged breaches in the wall between church and state as they occur. And from my understanding, the occurrences of complaints by interested parties are rare – in fact, unheard of in the history of the program. (The complaint by Americans United is without legal standing.) Please understand that the litigious-free history the ABC program has enjoyed is at stake in this decision. I can assure you that my religious convictions and rights as an American will compel me to oppose this proposed rule more fervently if the State Board passes it and as it goes through the legislative review process. And should it make it through that – which could only happen through an epidemic ignorance of First Amendment case law – I will seek to repair the injustice done the citizens of Arkansas through legal recourse.</p> <p>The fact that the ABC program is conducted in private places of business by private employees, is funded with a 40% local match, and requires the participation of parents and the community makes this an unprecedented circumstance; in other words, none of the case law you may have read about regarding public or parochial schools is applicable. Further, the Supreme Court has already ruled that in voucher-type programs, where funds follow the children, there is no government establishment of religion for a program with a secular purpose, whose primary effect is not to advance religion, even if conducted in a religious setting, alongside religious instruction (see <i>Zelman v. Simmons-Harris</i>). I urge you to oppose Section 23.</p> <p>Donna Lee Schillinger Clarksville, AR ps - tried submitting this comment via email - it was longer - but email was kicked back.</p>	
3/26/12	Arkansas ACLU	<p>The Arkansas Civil Liberties Union is a non-profit organization dedicated to preserving and defending the rights set forth in the Arkansas and U.S. Constitutions. Our organization works to protect both the fundamental right to free exercise of</p>	<p>The purpose of the proposed rule is to assure compliance with the Constitution; therefore, the nondiscrimination provision is comprised of constitutionally protected classifications. Because ABC programs are not public schools, Ark. Code Ann. § 6-18-514(b)(1) neither requires,</p>

Arkansas Better Chance Program Proposed Rules – Public Comment Matrix

		<p>religion and the protection of religious liberty set forth by the Free Exercise and Establishment Clauses of the First Amendment to the United States Constitution and Article 2 Sections 24-25 of the Arkansas Constitution. We write today to offer our comments on the proposed rules concerning the Arkansas Better Chance ("ABC") Program and the Constitutional prohibitions on use of tax dollars to support religious institutions and programming. We hope you will accept and utilize our comments to improve the proposed rules. Our observations are as follows:</p> <p>Proposed Rules</p> <p>~ Proposed rule 23.04.1 regarding conditions of participation as an ABC provider states, "ABC programs must admit eligible students without regard to race, gender, national origin, ancestry, color, disability, creed, political affiliation, or religion." We are pleased that the Department has included a non-discrimination provision, and we suggest that the proposed participation language be amended to include the protections currently set forth in Arkansas' protection of students law codified at Ark. Code Ann. § 6-18-514(b)(1) . This would be accomplished if the rule were amended to state that, "ABC programs must admit eligible students without regard to the student or the student's caregivers or relatives' race, gender, sexual orientation or gender identity, national origin, ancestry, color, disability, creed, political affiliation, physical appearance, socioeconomic status, or religion."</p> <p>~ Proposed rule 23.03.1 defines the ABC day as, "the seven (7) hours beginning with the first ABC activity of the day and includes all activities described in Section 13 of the ABC Program Standards." This is clearly intended to prohibit tax dollars from being spent for religious instruction during the seven hour curriculum set forth and paid for by state tax dollars for participating preschool providers, which may include religious entities. However, this seven hour limitation misses the mark for ensuring that taxpayer dollars are not used for improper religious purposes and in protecting students and families against religious coercion in connection with the ABC Program. First, as noted by the proposed Frequently Asked Question 3, under the Establishment Clause, tax dollars cannot be used to provide resources or infrastructure that</p>	<p>nor does it provide rulemaking authority for, the requested amendment.</p> <p>It would be inaccurate to declare that the ABC day extends beyond the publicly funded seven-hour day defined in current ABC rules.</p> <p>The state's authority to impose Establishment Clause regulation is limited to public places, public functions, and publicly funded activities. All other places, functions, and activities remain the province of private persons and entities. <i>Cf. U.S. Postal Service v. Full Gospel Interdenominational Church, Inc.</i>, 577 F.3d 479, 484 (2d Cir. 2009), <i>cert. denied sub nom. Sincerely Yours, Inc. v. Cooper</i>, 130 S. Ct. 1688 (2010) (Any Establishment Clause violation "is limited to the area of the [church-operated contract postal unit, or "CPU"] performing the public function; all other areas of the CPU remain the province of the private entity.") ABC programs exist at private places and carry out privately funded activities that are protected by the Free Exercise Clause.</p> <p>The FAQ is an aid in understanding and applying the proposed rule; it is not intended to supplement or supplant any part of the proposed rule.</p> <p>The suggested amendment goes too far, because it would prevent a parent from praying with his or her child in prayer before a meal in a private activity conducted separate and apart from any ABC program activity. However, we agree that the language can be improved. Accordingly, the proposed rule will be amended as follows: "Under the Establishment Clause, religious activities or instruction – including prayer or singing religious songs – organized, or sponsored, <u>or led</u> by an ABC provider <u>or any person acting under the authority or permission of the provider</u>, may not occur during any part of the ABC day."</p>
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Arkansas Better Chance Program Proposed Rules – Public Comment Matrix

		<p>support religious programming. Simply stated, any tax dollars received by an ABC provider cannot be used to support religious programming, even if that programming falls outside of the seven hour curriculum day. Second, most parents of preschoolers who are employed outside of the home do not work a seven hour day. In these cases, the common practice is for a preschool to provide after care services for the additional time the child is at the facility. In many areas, ABC providers are often the1 only preschool provider or one of a handful of providers of preschool education. The after care services they provide are often the only option or the only affordable option for many working parents who want to enroll their children in an ABC program, but cannot pick up their children at the end of the seven-hour curriculum. Where ABC providers do not offer secular after care services, families with working parents may be effectively coerced into participating in the religious after care programming if they hope to remain a part of the particular ABC program. The seven hour rule proposed does not take into account these realities. In light of these factors, we urge you to consider some practical alternatives to the current proposed seven-hour rule. For example, the Department could define the "ABC day" as lasting from the child's arrival for an ABC program until his or her departure from the provider's facility. Such a rule would ensure that parents and children who have little choice as to providers of preschool under ABC are not compelled to utilize a provider that converts to a religious after care for the remainder of the child's time at the facility. Alternatively, the Department might require that any ABC after care program be non-religious, or that a non-religious after care program be offered alongside any religious after care program for all ABC providers that establish after care services.</p> <p>We agree that the suggestion of Americans United that requiring separate accounts for taxpayer funds is a good way to ensure compliance. We would also ask that the Department ensure that that the terms of employment or contracts for ABC employees are subject to the compliance review process.</p> <p>Frequently Asked Questions</p>	<p>Government must allocate benefits among secular and religious organizations without regard to their religion. See <i>Mitchell</i>, 520 U.S. at 809-10. A church is itself a religious symbol. To condition government funding on the removal of religious symbols is to condition public benefits on the absence of religion in violation of constitutional principles of neutrality. In <i>Does v. Elmbrook Joint Common Sch. Dist. No. 21</i>, 2010 WL 2854287 (E.D.Wis. July 19, 2010), the public school held graduation ceremonies in a church. The court found no violation of the Establishment Clause, despite the presence of large crosses; Bibles and hymnals; religious banners, symbols and posters; Bible quotes inscribed in wood; and religious literature displayed throughout the church at issue. See also, <i>ACLU-TN v. Sumner County Bd. of Educ.</i>, 2011 WL 1675008 (M.D.Tenn.,2011).</p> <p>Furthermore, religious icons on private property are private religious speech protected by both the Free Speech and Free Exercise Clauses. "[T]here is a crucial difference between <i>government</i> speech endorsing religion, which the Establishment Clause forbids, and <i>private</i> speech endorsing religion, which the Free Speech and Free Exercise Clauses protect." <i>Board of Educ. of Westside Community Schs. v. Mergens By and Through Mergens</i>, 496 U.S. 226, 250 (1990).</p> <p>Our precedent establishes that private religious speech, far from being a First Amendment orphan, is as fully protected under the Free Speech Clause as secular private expression. <i>Lamb's Chapel v. Center Moriches Union Free School Dist.</i>, 508 U.S. 384 (1993); <i>Board of Educ. of Westside Comm. Schs. (Dist. 66) v. Mergens</i>, 496 U.S. 226 (1990); <i>Widmar v. Vincent</i>, 454 U.S. 263 (1981); <i>Heffron v. Int'l Soc. for Krishna Consciousness, Inc.</i>, 452 U.S. 640 (1981). Indeed, in Anglo-American history, at least, government suppression of speech has so commonly been directed <i>precisely</i> at religious speech that a free-speech clause without religion would be Hamlet without the</p>
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Arkansas Better Chance Program Proposed Rules – Public Comment Matrix

	<p>II- It is unclear to us whether the Frequently Asked Questions ("FAQ") provided with the comments is intended to be formalized so as to constitute a formal statement of the Department regarding the Arkansas Better Chance Program and rule enforcement, or whether they are merely informal, advisory comments for purposes of communicating with the public and providers regarding the proposed rules. Subject to the following comments on the proposed FAQ, we would ask that the FAQ be formalized, as it provides helpful guidance that is not otherwise provided in detail in the proposed rules.</p> <p>II- In FAQ 4 regarding prayer or singing at facilities, the phrase "organized or sponsored by an ABC provider may not occur during any part of the ABC day" should be modified to say, "organized, sponsored, or led by an ABC provider, its employees, volunteers, guests or other adults may not occur during any part of the ABC day." This modification would ensure that the law --which requires no adult led or organized religious activities -- is accurately stated in the FAQ. The proposed rule correctly recognizes that students are still entitled, on a voluntary basis, to pray individually or in groups or to discuss their religious views with their peers so long as they are not disruptive.</p> <p>II- FAQ 6 relates to the preschool's extending the day beyond seven hours to have Bible study or prayer. Please see our above comments regarding proposed rule 23.03.1.</p> <p>... FAQ 7 relates to the display of religious material on the walls. The constitutionality of religious icons, symbols, pictures, and other idols in a state funded preschool setting generally depends on the location of those symbols. The commentary to FAQ 7 states, without citation, that receipt of public aid cannot be conditioned on the removal of religious materials from private premises. This commentary is incorrect. In fact, religious icons should not be displayed by an ABC provider in any area where students are learning or where ABC programming is otherwise taking place, such as classrooms, play areas, and other common areas used by students, including cafeterias, restrooms, and</p>	<p>prince. Accordingly, we have not excluded from free-speech protections religious proselytizing, <i>Heffron, supra</i>, at 647, 101 S.Ct., at 2563-2564, or even acts of worship, <i>Widmar, supra</i>, at 269, n. 6, 102 S.Ct., at 274, n. 6. Petitioners do not dispute that respondents, in displaying their cross, were engaging in constitutionally protected expression.</p> <p><i>Capitol Square Review and Advisory Bd. v. Pinette</i>, 515 U.S. 753, 760 (1995).</p> <p>The commenter cited five cases in support of the contention that ABC programs must remove religious icons. When considering the applicability of these cases, the ultimate question is "whether any religious indoctrination that occurs ... could reasonably be attributed to governmental action." <i>Mitchell</i>, 530 U.S. at 809, citing <i>Agonstini</i>, 521 U.S. at 226. There must be "a sufficiently close nexus between the State and the challenged action of the ... entity so that the action of the latter may be fairly treated as that of the State itself." <i>United States v. Stein</i>, 541 F.3d 130, 146 (2d Cir. 2008) (quoting <i>Jackson v. Metro. Edison Co.</i>, 419 U.S. 345, 351 (1974)).</p> <p>When religious icons appear on property the government owns or leases, or on property used exclusively for inherently public functions, reasonable persons may attribute the presence of those icons to the government. ABC facilities, however, are not owned or leased by the government, nor are they used exclusively for inherently public purposes. Instead, ABC is:</p> <ul style="list-style-type: none"> (a) Offered at private preschool child care facilities; (b) An educational <i>component</i> of the provider's services; and (c) Only partially supported with public funds. Under these circumstances, it is not reasonable to attribute every aspect of the ABC environment to
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Arkansas Better Chance Program Proposed Rules – Public Comment Matrix

	<p>hallways. <i>Agostini v. Felton</i>, 521 U.S. 203, 211-212 (1997). Thus, for example, the U.S. Court of Appeals for the Second Circuit recently held that, to comply with the Establishment Clause, a contract unit of the Postal Service housed in a part of a church-related building must remove religious material (including religious displays and pictures) from the area in which postal customers seek services. <i>Cooper v. USPS</i>, 577 F.3d 479, 497 (2d Cir. 2009), cert. denied, <i>sub nom. Sincerely Yours, Inc. v. Cooper</i>, 130 S. Ct. 1688 (2010). Similarly, in the public-school context, which is analogous to the state-funded ABC Program, the courts have made clear that displays of religious iconography are simply impermissible. See, e.g., <i>Washegesic v. Bloomingdale Pub. Sch.</i>, 33 F.3d 679 (6th Cir. 1994) (holding public school's display of portrait Jesus portrait unconstitutional); <i>Roberts v. Madigan</i>, 921 F.2d 1047, 1049, 1051 (10th Cir. 1990) (upholding public school's removal of poster display that stated, "You have only to open your eyes to see the hand of God"); <i>Ahluquist v. City of Cranston ex rei. Strom</i>, No. CA 11-138L, 2012 WL 89965 (D.R.I. Jan. 11, 2012) (holding that a public school's display of prayer banner was unconstitutional). These decisions recognize that schoolchildren are particularly vulnerable to religious coercion and must, therefore, be protected from government-sponsored and government-funded promotions of religious messages. Indeed, with these considerations in mind, one federal district court has even held that a public school could not conduct its classes in a leased church parish building. The court reasoned that, even though crosses and bulletin boards with religious messages were covered in each classroom, the rest of the building and grounds to which the schoolchildren were exposed included religious symbols and messages that improperly conveyed governmental endorsement of religion. <i>Spacco v. Bridgewater Sch. Dep't</i>, 722 F. Supp. 834, 843 (D. Mass. 1989). As these authorities make clear, religious symbols must be removed or covered when they appear in areas of programming supported by taxpayer dollars. As these authorities make clear, religious symbols must be removed or covered when they appear in areas of programming supported by taxpayer dollars. ABC providers should not express personal religious beliefs to</p>	<p>the government. With that said, we turn to the five cases cited by the commenter.</p> <p>Four of the five cases cited by the commenter concerned public schools, where the presence of religious icons is naturally attributed to government action, and generally prohibited. The fifth case, <i>Cooper v. USPS</i>, 577 F.3d 479 (2d Cir. 2009), cert. denied <i>sub nom. Sincerely Yours, Inc. v. Cooper</i>, 130 S.Ct. 1688 (2010), concerned a postal facility operated by a private entity on private property. Other than <i>Cooper</i>, the commenter cited no cases involving religious icons displayed on private property.</p> <p>In <i>Cooper</i>, the United States Postal Service contracted with a church to operate a contract postal unit, or CPU, on church property. Within its CPU, the church displayed a variety of religious materials including prayer cards and requests, advertisements and donation boxes for a religious organization, and played church-related videos on a monitor. 577 F.3d at 488-9. The fact that the "CPU is located in a religious facility, or sponsored by a religious entity, or that its revenues benefit a particular faith, does not offend the Establishment Clause." 577 F.3d at 494. However, as a U.S. mail handler, the CPU exercised powers that are traditionally the exclusive prerogative of the State, and thus was a state actor under the "public function" test announced in <i>West v. Atkins</i>, 487 U.S. 42, 57 (1988). Areas where the public functions were carried out had to be differentiated from other parts of the CPU and cleared of religious materials. (Religious materials were allowed to remain in other areas of the CPU.) 577 F.3d at 497.</p> <p><i>Cooper</i> turned on the fact that the CPU was a state actor. Preschool education is not traditionally or inherently a public function, so ABC providers cannot be identified as state actors. As a result, the <i>Cooper</i> Court's rationale does not apply to the ABC program.</p> <p>We will amend the proposed rule to set out a complaint process and adopt the existing correction timeframes.</p>
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Arkansas Better Chance Program Proposed Rules – Public Comment Matrix

		<p>students during or in conjunction with instructional time or school events or through written or symbolic means (whether placed on a classroom or hallway wall, erected on a classroom floor, or otherwise attached or placed on the District's tangible property). However, it must be remembered that jewelry or other adornments worn on the ABC providers and their employees' persons or clothing or other religious articles worn by the school officials and students (e.g., yarmulke and a cross necklace) are personal religious expressions and Free Exercises of religion protected by the Constitution and must be permitted during ABC programming .</p> <p>... FAQ 8 relates to compliance. The comment under FAQ 8 states that compliance will be reviewed at regular monitoring visits, which certainly makes sense. The Department should also add, for public information, the proper mechanism for persons to complain about these and other rule or regulation violations .</p> <p>... FAQ 8 seems to suggest that correction for non-compliance with the new rules will be handled differently by the Department than would correction for non-compliance for other rules. Though the proposed rule changes do not specify a separate compliance rule for ABC participating preschools, the FAQ states, "If DCCECE concludes that a violation exists, the provider will be informed and asked for a plan to correct the violation within 30 days. If the violation is not corrected within that time, DCCECE will initiate a formal enforcement action to discontinue public funds for the noncompliant program." By contrast, the existing compliance rule for ABC participating preschools, 22.01, states, "An ABC program found to be out of compliance with any ABC Rule or Regulation shall be placed on a 60-day Compliance Plan. During this probationary period, a program must make all necessary corrections or be subject to termination from the ABC program. Compliance deficiencies may also result in immediate termination from the ABC program, denial of future ABC funds, repayment of funds and exclusion from participation in any DHS programs." While there may be reasons that the Department would treat non-compliance for this issue differently than for other issues, on its face, there seems to be no basis for having a separate</p>	
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Arkansas Better Chance Program Proposed Rules – Public Comment Matrix

		<p>compliance procedure for the new rules than for existing rules. Having separate compliance rules could constitute an Equal Protection violation. To provide a separate mechanism in the FAQs than under the proposed rules also would create ambiguity. For these reasons, we urge you to consider using the established compliance rules for issues of non-compliance with the new proposed rules, as well.</p> <p>Conclusion</p> <p>Our constitutional jurisprudence is clear that taxpayer dollars cannot be used to support religious teaching in these circumstances. This constitutional prohibition against governmental promotion of religion is vital to preserving the religious liberty of every Arkansan. This notion is always easier to understand when one envisions that the religion being supported by tax dollars is a religion other than one's own. For example, those who practice Christianity would no doubt be offended if the only ABC provider in their geographic area utilized the ABC program's tax dollars to promote the Islamic religion, worship, and education for preschoolers. The same is true for preschools that center around Christian beliefs that are different from those of the families of enrolled preschoolers. As noted above, the importance of ensuring that the government does not discriminate in this manner is especially pronounced when it involves very young children who are particularly impressionable. The ABC program was set up to benefit all eligible Arkansans. We commend the Department for taking steps to ensure that the program is carried out in a Constitutional manner that does truly benefit all eligible Arkansans. Thank you for considering our comments, and please feel free to contact us if you have any questions, comments, or concerns about the foregoing.</p>	
3/26/12	Tripp Walter (APSRC)	<p><u>Section 23.03.4</u> – The definition of “professional services” needs to specify that the activities are provided by ABC provider employees. Otherwise this would not be a salary but would be a contracted service. The term “professional services” is used most often in the context of a contracted service.</p>	<p>The definition of professional services identifies specific ABC functions that are supportable with public funds. Because the goal was to identify allowable costs by function rather than employment status, we will amend § 23.04.2 by deleting “salaries” and substituting “compensation.”</p>