

## **Title 6. Education**

### **Chapter I. Division of Elementary and Secondary Education**

#### **Subchapter D. Student Instruction and Learning**

#### **Part 100. Rules Governing the Arkansas Better Chance Program**

##### **Subpart 1. Generally**

#### **6 CAR § 100-101. Arkansas kindergarten readiness.**

Arkansas's foundation for kindergarten readiness:

(1) Kindergarten readiness will be measured by a Department of Education state-approved assessment aligned with the Early Learning Standards in Arkansas;

(2) Kindergarten readiness includes the following domains:

(A) Physical health, well-being, and motor skills;

(B) Social-emotional development including self-regulation and relationships with peers and adults;

(C) Language and literacy development including:

(i) Language understanding;

(ii) Emergent literacy; and

(iii) Early writing;

(D) Cognition and general knowledge including:

(i) Math;

(ii) Science; and

(iii) Problem solving; and

(E) Approaches to learning including:

(i) Initiative;

(ii) Attentiveness;

(iii) Persistence; and

(iv) Play;

(3) Kindergarten-ready children have the social, emotional, and academic knowledge, skills, and behaviors for school success and lifelong learning; and

(4) Kindergarten readiness occurs when families, schools, and communities support the healthy foundation of children’s growth so they are successful in school and in life.

**6 CAR § 100-102. Purpose.**

It is the purpose of this part 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.

**6 CAR § 100-103. Definitions.**

As used in this part:

(1) “Arkansas Better Chance (ABC)” means a developmentally appropriate early care and education program that offers high-quality early education services to children birth to five (5) years exhibiting developmental and socioeconomic risk factors;

(2)(A) “Arkansas Better Chance for School Success (ABCSS)” means a developmentally appropriate early care and education program for children three (3) and four (4) years of age created under Arkansas Code § 6-45-105(a)(1)(B).

(B) Unless standards for the ABC Program and the ABCSS Program are listed separately, the term “ABC” will be used to refer to all participating programs;

(3) “ADE” means Department of Education;

(4) “AECPPDS” means Arkansas Early Childhood Professional Development System;

(5) “Agency” means any entity funded under the Arkansas Better Chance Program or Arkansas Better Chance for School Success Program;

(6) “APSCN” means Arkansas Public School Computer Network;

(7) “Child and Adult Care Food Program (CACFP)” means a federally funded subsidy program administered by the Office of Early Childhood designed to provide reimbursement to providers for meals and snacks served to children from low-income families;

(8)(A) "Childcare family home (CCFH)" means a situation in which children are cared for in a caregiver's own family residence or in some other suitable family-type residence.

(B)(i) There shall be no more than one (1) license issued per home or structure.

(ii) This does not apply to situations such as a duplex where two (2) licenses could be issued to two (2) separate applicants;

(9) "CDA" means Child Development Associate;

(10) "Child assessment" means a web-based instrument used by ABC Programs to assess a child's progress towards school readiness in various domains;

(11)(A) "Classroom" means a physical space that is partitioned for the purpose of ABC Program instruction and activities.

(B) Each classroom must meet licensing requirements and state Arkansas Better Chance Program Core Quality Approval Standards.

(C) "Single-site classroom" means one (1) ABC Program classroom at a geographic location.

(D) "Multi-classroom site" means multiple ABC Program classrooms located on the same premises;

(12) "Classroom quality rating tool" means a nationally recognized rating scale to measure various elements of classroom quality for prekindergarten, infant-toddler, and childcare family homes;

(13) "Core quality components" means the six (6) key areas of ABC Programs that serve as the basis of ABC Program funding levels, and includes:

(A) Low student-to-teacher ratio;

(B) Well-qualified and compensated staff;

(C) Professional development;

(D) Developmental screening and child assessment;

(E) Proven curricula and learning processes; and

(F) Meaningful parent and community engagement activities;

(14) "DESE" means Division of Elementary and Secondary Education;

(15) "Developmental screener" means a tool used to identify possible developmental and behavioral delays;

(16) "DHS" means Department of Human Services;

(17) "FPL" means federal poverty level;

(18) "HIPPPY" means Home Instruction for Parents of Preschool Youngsters U.S.A.;

(19) "IDEA" means the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.;

(20) "IEP" means individualized education program;

(21)(A) "In-kind services" means support services provided at either no cost or without monetary exchange.

(B) To use in-kind services as match, services must be provided to the ABC Program;

(22) "Investigating, Discovering, and Exploring (INDEX)" means the state-approved curriculum training on Math and Science for Young Children;

(23)(A) "Kindergarten-ready children" means children who have the social, emotional, and academic knowledge, skills, and behaviors for school success and lifelong learning.

(B) Kindergarten readiness includes the following domains:

(i) Physical health, well-being, and motor skills;

(ii) Social-emotional development, including:

(a) Self-regulation; and

(b) Relationships with peers and adults;

(iii) Language and literacy development, including:

(a) Language understanding;

(b) Emergent literacy; and

(c) Early writing;

(iv) Cognition and general knowledge, including:

(a) Math;

(b) Science; and

- (c) Problem solving; and
- (v) Approaches to learning, including:
  - (a) Initiative;
  - (b) Attentiveness;
  - (c) Persistence; and
  - (d) Play.

(C) Kindergarten readiness will be measured by a Department of Education state-approved assessment aligned with the Early Learning Standards in Arkansas.

(D) Kindergarten readiness occurs when families, schools, and communities support the healthy foundation of children’s growth so they are successful in school and in life;

(24) “Local education agency (LEA)” means a public school district or open-enrollment public charter school;

(25) “OEC” means Office of Early Childhood;

(26) “PAT” means Parents as Teachers;

(27) “PDR” means Professional Development Registry;

(28) “Shall” means mandatory standard;

(29) “Should” means standard is recommended but not mandatory;

(30) “Staff Qualifications Plan (SQP)” means a process by which the Office of Early Childhood can approve staff not meeting minimum qualifications to work in an ABC Program classroom under certain restrictions;

(31) “SSN” means Social Security number; and

(32) “State data system” means a web-based information technology system used to capture and maintain data for all children, families, staff, and programs enrolled and participating in an ABC Program.

## **Subpart 2. Program Requirements**

### **6 CAR § 100-201. Child eligibility.**

(a)(1) The ABC Program serves eligible children as defined in subsection (c) of this section, ages birth through five (5) years, excluding a kindergarten program.

(2) The Arkansas Better Chance for School Success Program serves children ages three through four (3 – 4) from families with gross income not exceeding two hundred percent (200%) of the FPL.

(3) Programs wishing to enroll a kindergarten-eligible child must obtain a written waiver from the Office of Early Childhood before enrolling the child in the ABC Program.

(4) Parents must also complete a kindergarten waiver process through the local school district.

(b)(1) To be eligible, children shall reside within the boundaries of an Arkansas school district.

(2) Programs may accept children outside of their local area if they have:

(A) Exhausted local recruiting efforts; and

(B) Unfilled ABC Program slots.

(c) Eligible children for the ABC Program shall have at least one (1) of the following characteristics:

(1) Family with gross income not exceeding two hundred percent (200%) of the FPL;

(2) Parents without a high school diploma or GED;

(3) Low birth weight (below five pounds, nine ounces (5 lbs. 9 ozs.);

(4) Parent is under eighteen (18) years of age at child's birth;

(5) Immediate family member has a history of substance abuse and/or addiction;

(6) Has a demonstrable developmental delay as identified through screening;

(7) Eligible for services under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.;

(8) Income-eligible for Title I programs;

(9) Limited English proficiency; or

(10) Parent has history of abuse or neglect or is a victim of abuse or neglect.

(d)(1) Eligible children for the ABCSS Program must meet the following qualifications:

(A) Must be three (3) or four (4) years old by the Department of Education cutoff date;

(B) Gross family income equal to or less than two hundred percent (200%) of the FPL; and

(C) A program is available in the area where the child resides and there is available space for the child to attend.

(2) To receive early childhood special education services, a child must reside within certain district and, or, or, educational service cooperative boundary lines.

(3) A child eligible for special education services shall be provided services by the local school district or area education service cooperative where the child resides.

(4) A child eligible for special education services participating in a program outside the resident district or education service cooperative area shall be provided services by the district or education service cooperative where the child resides.

(e)(1) 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.

(2) A list of all acceptable documentation will be published annually by the Division of Elementary and Secondary Education.

(3) Children of parents or guardians refusing to furnish required information shall be deemed ineligible for participation.

(4) Programs:

(A) Are responsible for verifying eligibility before the child attends; and

(B) Shall maintain copies of eligibility documentation in the child's record.

(f)(1) A copy of the child's birth certificate or hospital record listing a date of birth is required.

(2) If official documentation of date of birth is unavailable, the ABC Program shall follow the guidelines of the local district in such instances.

(g)(1) In determining income eligibility, programs shall use:

(A) A family's gross income from employment; plus

(B) Any unemployment compensation.

(2) Documentation of income eligibility must be present in each child's record.

(3) If pay stubs are used to document eligibility, recent documents (dated within thirty (30) days) shall be used.

(4) The division shall publish a list of acceptable documentation annually.

(5) If a three-year-old child has been qualified for the ABCSS Program, that child shall remain eligible for two (2) years.

(h) 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's record.

(i) Parents or guardians shown to have submitted a falsified document shall be subject to repayment of funds to the division and referral for prosecution.

(j) 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 the division.

(k) An age-eligible child who falls into one (1) of the following categories shall be exempt from family income requirements:

(1) Foster child;

(2) Child with an incarcerated parent;

(3) Child in the custody of and, or, or living with a family member other than mother or father;

(4) Child with an immediate family member arrested for or convicted of drug-related offenses; or

(5) Child with a parent activated for overseas military duty.

(l)(1) The division may develop a fee schedule and establish eligibility based on family income for children who are not eligible under subsection (d) of this section, but priority enrollment shall be provided to children eligible under subsection (d) of this section.

(2) Families who are qualified for enrollment under a sliding fee scale should pay fees directly to the program.

(3) The amount of any parent copay as determined by the division shall be deducted from the reimbursement to programs accepting children on a sliding fee scale.

(m)(1) The division may grant waivers to children not meeting the eligibility criteria under subsections (c) or (d) of this section but possessing multiple risk factors for learning and developmental impairment.

(2) Requests for such waivers:

(A) Must be submitted to the division in writing; and

(B) Will be considered on a case-by-case basis.

(n)(1) Children having certain risk factors may be eligible for home-visiting services in addition to attending a center-based ABC Program.

(2) See 6 CAR § 100-216(f) for eligibility requirements.

(o) Eligible children shall not be denied enrollment into an available ABC Program or dismissed from an ABC Program due to nonpayment of any fees associated with another childcare program.

**6 CAR § 100-202. Program/ and, or, or agency eligibility.**

(a)(1) Any childcare provider meeting these criteria is eligible to apply for funding:

(A) Located within the boundaries of the State of Arkansas;

(B) Licensed by the Office of Early Childhood as a childcare center or childcare family home with no history of formal corrective action or founded complaints that pose an immediate safety risk within twelve (12) months of application date;

(C)(i) Has no outstanding debt to the Division of Elementary and Secondary Education.

(ii) This requirement shall be suspended if an appeal is pending;

(D) Has obtained State Quality Approval accreditation or is eligible for such accreditation in the space to be used for the ABC Program; and

(E) Can provide matching funds in accordance with local-to-state forty-to-sixty (40:60) funding ratio.

(2)(A) The local-to-state match may be waived by the division if the:

- (i) Program is in a school district that has been designated by the State Board of Education as being in Level 5 — Intensive support or fiscal distress; and
- (ii) Division determines that the school is unable to provide the local-to-state match requirement.

(B) This determination may be made only after the division has assisted the school in identifying potential funding sources to provide local-to-state match requirements.

(b)(1) Any provider wishing to be considered for funding must fully complete a grant application supplied by the division.

(2) Grant applications will be evaluated and scored on the following factors:

- (A) Current status of childcare license and Quality Approval accreditation;
  - (B) The degree to which the program can provide a developmentally appropriate preschool program as outlined in the grant application;
  - (C) A strategy of collaboration with the local business, health, and education community;
  - (D) A fiscally responsible budget that correlates to core quality models;
- and
- (E) A plan of action for parent involvement.

(c)(1) The division will determine an acceptable cutoff score for approved applications.

(2) Upon availability of funding, the office will open an application window.

(3) Questions and concerns regarding grant scoring should be referred to the ABC Program Administrator.

(4) The ABC Program Administrator shall make the final determination of all grant scores.

(5) Grant scores are final.

(d)(1) All applications shall include a budget that:

- (A) Corresponds to the ABC Program core quality components;
- (B) Details program costs; and

(C) Demonstrates fiscal responsibility.

(2) Allowable costs include:

(A) Salaries/ and, or, or fringe;

(B) Instructional materials;

(C) Staff development;

(D) Developmental screenings;

(E) Parent/ and, or, or community engagement activities; and

(F) Financial assistance for staff working towards a degree or credential,

including but not limited to:

(i) Books;

(ii) Tuition; and

(iii) Travel.

### **6 CAR § 100-203. Funding.**

(a)(1) Upon approval of an ABC Program application, the order of funding shall be based on criteria stated in the Arkansas Better Chance Program Act, Arkansas Code § 6-45-101 et seq., which includes areas of the state containing:

(A) Schools reported with a state letter grade of a D or an F in the preceding two (2) school years, that have seventy-five percent (75%) or more students scoring below proficiency level on the primary state assessment (math and literacy) in the preceding two (2) school years; and

(B) School districts designated by the State Board of Education as being in Level 5 — Intensive support or fiscal distress.

(2) Other factors determining areas to be funded may include the:

(A) Socioeconomic status of the service area; and

(B) Availability of existing quality preschool services in an area.

(b)(1) Any program funded through the ABC Program shall work in collaboration with the Division of Elementary and Secondary Education, the Office of Early Childhood, Early Childhood Local Leads, local businesses, and other early childhood providers (school districts, education cooperatives, Head Start, home visiting, private and

nonprofit providers, and others) to ensure that all eligible children are served in the most suitable environment.

(2) This collaboration shall include, but is not limited to:

(A) Participation in and, or, or facilitation of local early childhood meetings; and

(B) Referring families to other programs when appropriate.

(c)(1) The required local forty percent (40%) match may include only the cost of providing necessary services for ABC Program children.

(2) Matching funds may be cash or in-kind.

(d) State ABC Program funding (sixty percent (60%)) for the core components of the program may include salaries and fringe for staff giving:

(1) Direct services to ABC Program children;

(2) Professional development;

(3) Child assessment;

(4) Developmental screening;

(5) Meaningful parent and community engagement activities;

(6) Proven curricula and learning processes;

(7) Transportation; and

(8) Administration.

(e)(1) The ABC Program funding award is based upon projected child enrollment from the previous year's October enrollment.

(2) Programs will be paid monthly based on enrollment and the number of full days offered.

(3) During the year, programs shall be reviewed to ensure compliance with child enrollment and attendance policies.

(4) An ABC Program found to be enrolling ineligible children shall be:

(A) Required to repay applicable funds to the division; and

(B) Subject to all collection proceedings allowed by law.

(5) Funds may be withheld from future payments to satisfy repayment.

(6) Overpayments or the amount of any end-of-year carry-over funds shall be repaid to the division.

(f)(1) The division shall not be responsible for sending out additional or late payments due to failure of agency to enter attendance and submit billing in the required state data portal for monthly payments.

(2) The division will assume any payments not disputed within thirty (30) days of receipt shall be correct.

(3) The division cannot retroactively pay any agency for previous-year services.

(g) Payment shall be withheld if a program does not comply with reporting requirements.

(h) The ABC Program is intended to supplement, not supplant, existing early childhood funding sources.

(i) Funding, not to exceed two percent (2%) of the total ABC Program funding pool, shall be available from the ABC Program moneys for the additional support services required of the division in administering the ABC Program.

#### **6 CAR § 100-204. Reporting.**

(a)(1) All child, family, and staff information shall be maintained in the required state data portal by the program.

(2) Attendance shall be taken daily and recorded in the required state data portal at least monthly.

(3) Initial data must be entered by the due date set and published by the Office of Early Childhood.

(4) Agencies shall update data within ten (10) days of any change to family, child, or staff data.

(b)(1) Each ABC Program shall submit to the Division of Elementary and Secondary Education two (2) financial expenditure reports, due on January 30 and July 30 of each year, that detail operating expenses and enrollment data.

(2) Programs shall receive guidance from the division on the specific format of each report.

(c) An agency shall operate its ABC Program according to the financial guidelines outlined in the grant application instructions.

(d)(1) A complete and final disclosure audit of each ABC Program is required and must be submitted annually for review to the division.

(2) Any ABC Program that is annually reviewed by Arkansas Legislative Audit may submit the summary completed by that agency.

(3) All final audits shall be submitted within one hundred twenty (120) days of the program's fiscal year completion.

(e) Programs that fail to adhere to a reporting deadline or respond to a request for information by the division will be subject to compliance action as outlined in 6 CAR § 100-219.

(f)(1) Children qualifying under the sliding fee scale must be clearly marked as such in the required state data portal.

(2) Programs shall also report any non-ABC-Program-qualifying children who have been assigned to an ABC Program classroom.

(3)(A) Failure to do so is grounds for a compliance plan.

(B) See 6 CAR § 100-219.

(4) The division will inform programs as to the manner that reporting shall take place.

(g)(1) Once a grant agreement has been signed, any change made to the program whatsoever shall be reported to the division within five (5) working days of the change.

(2) This includes, but is not limited to, any changes in:

(A) Address;

(B) Phone;

(C) Email address;

(D) Staff;

(E) Slot locations; or

(F) Budget items.

**6 CAR § 100-205. Application/ and, or, or renewal application.**

(a)(1) The Request for Applications will specify all application procedures for an ABC Program.

(2) The Division of Elementary and Secondary Education is not obligated to review any proposal received after the submission deadline stated in the application.

(b) If all ABC Program funds are not allocated or expended during any program year, the division may initiate an additional application period to fully obligate all available funds.

(c)(1) An agency shall operate its ABC Program in accordance with all information contained in the grant application.

(2) Any deviation from the information in the application must first be approved by the division.

(3) This includes budget items.

(d) All applications submitted by sectarian or sectarian-affiliated programs must first be reviewed to ensure that approval of funding will not result in a violation of the First Amendment to the United States Constitution.

**6 CAR § 100-206. Minimum standards/ and, or, or classroom programs.**

(a) All ABC Program classroom programs shall satisfy the requirements specified in:

(1) Arkansas Code §§ 20-78-201 – 20-78-224; and

(2) Rules enacted by the Office of Early Childhood pursuant to this part.

(b)(1) All ABC-Program-center-based or family-home-based programs shall maintain a license in good standing as referenced in subsection (a) of this section.

(2) Any ABC Program whose license is revoked shall be immediately terminated from the ABC Program.

(c)(1) Entities that are on a federal, state, or agency suspension or debarment list are not eligible to participate in the ABC Program.

(2) Grant agreements for any existing programs excluded due to this section shall be terminated immediately.

(3) Programs placed on corrective action by OEC are subject to ABC Program compliance action as outlined in 6 CAR § 100-219.

(d)(1) The office is directly responsible for the inspection and evaluation of programs as referenced in subsection (a) of this section.

(2) Inspections and monitoring visits may occur without prior notice.

(3) This includes quality visits, program reviews, or any other visit by an office or authorized representative.

(e)(1)(A) All ABC Programs shall meet the criteria for academic approval set by the State Board of Education.

(B) A state-approved quality rating assessment tool will be utilized to determine a classroom and program quality rating under the Arkansas Early Care and Education Approval System Rules, Arkansas Code §§ 6-45-103 and 6-45-106.

(2) Any agency that is not renewed pursuant to this policy shall be ineligible to reapply for an ABC Program grant for a period of twelve (12) months.

(3)(A) At the discretion of the Division of Elementary and Secondary Education, the following may be considered as mitigating circumstances:

(i) Impact of deficiencies on child health;

(ii) Safety and welfare;

(iii) Willingness to improve upon factors within agency control; and

(iv) Likelihood of program passing next review and the time in which such improvements can be implemented.

(B) Recommendations for improvement may include staff changes.

(f)(1) For each child enrolled, ABC Programs shall provide a minimum of seven (7) hours a day for up to one hundred seventy-eight (178) days per school calendar year.

(2) Extended hours do not count as additional days for funding.

(3) Funding is based on the number of days.

(4) Any days fewer than the one hundred seventy-eight (178) days will be prorated based on the daily rate of the program established by the office.

(g)(1) Classroom-based programs shall follow public school rules regarding the time requirements for teacher planning periods.

(2) However, planning periods for ABC Program teachers shall be scheduled at a time that does not violate minimum staff-child ratios or other ABC Program standards.

(h)(1) Programs shall provide families with the program's attendance and tardy policy.

(2) Regular and consistent attendance is expected.

(3) For children to receive the full benefit from the ABC instructional program, children must have regular attendance.

**6 CAR § 100-207. Staff/ and, or, or pupil ratio for classroom programs.**

(a)(1) The group size in any classroom with ABC Program children shall not exceed eight (8) children for ages birth through eighteen (18) months, fourteen (14) children for ages eighteen (18) months through three (3) years, twenty (20) children for ages three through five (3 – 5) years, or the classroom's licensing capacity, whichever is less.

(2) Programs may integrate ABC Program classrooms with children funded through other sources.

(3) However, the maximum group sizes listed above apply to all children in a classroom containing ABC Program children, regardless of funding source.

(b) The adult-to-child ratio in any classroom with ABC Program children shall not exceed:

(1) One-to-four (1:4) for birth to eighteen (18) months;

(2) One-to-seven (1:7) for eighteen (18) months to three (3) years; and

(3) One-to-ten (1:10) for three through five (3 – 5) years.

(c)(1) A minimum of fifty percent (50%) of the staff must remain in the classroom during rest time for children three through five (3 – 5) years old only.

(2) Full staffing must occur for all other ages and at all other times, including meals.

(d)(1) 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.

(2) 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.

**6 CAR § 100-208. Staff qualifications and training requirements.**

(a)(1) The lead teacher shall:

(A) Hold an Arkansas educator license in an area of early childhood preK;

or

(B) Have a bachelor's degree in child development, early childhood education, or a related field with the requisite number of twelve (12) hours in early childhood and, or, or child development.

(2) The Division of Elementary and Secondary Education may consider alternative pathways or experience on a case-by-case basis.

(3) Lead teachers must be able to demonstrate competency in the areas of:

(A) Developmentally appropriate programming;

(B) Curriculum development; and

(C) Daily classroom management.

(b) 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.

**(c) Paraprofessionals.**

(1) The paraprofessional shall hold one (1) of the following:

(A) An associate degree in early childhood education or child development; or

(B) A CDA credential.

(2) Paraprofessionals are an integral part of classroom instruction and should be given responsibilities that are commensurate with their education and experience.

(3) In general, paraprofessionals should be able to assist with classroom:

(A) Activities;

(B) Interaction;

(C) Supervision; and

(D) Observation.

(d) Programs replacing a teacher or paraprofessional during the year, including those taking an indefinite leave of absence, shall consult with the division on specific qualifications needed.

(e)(1) An ABC Program coordinator or site director without teaching responsibilities shall:

(A) Meet the minimum licensing requirements for a center director; and

(B) Complete Director's Orientation within a reasonable time period,

subject to the availability of training.

(2) The coordinator or director will preferably have some experience in early childhood.

(f) Caregivers in an infant/ and, or, or toddler ABC Program room shall hold a minimum of a CDA credential in infant/ and, or, or toddler care.

(g)(1) Staff members not qualifying under subsections (a) and (b) of this section may work in an ABC Program under an approved SQP.

(2) The division:

(A) Will approve these plans on a case-by-case basis; and

(B) Shall monitor the plan to ensure adequate progress is being made.

(3) Programs shall:

(A) File an SQP with the division within fifteen (15) days of the date of hire; and

(B) Submit progress reports on January 30 and July 30 annually.

(4) Programs hiring staff members not meeting minimum qualifications without an approved SQP shall be subject to termination from the ABC Program.

(h) While adhering to the necessary qualifications, ABC Programs should also strive to maintain an ethnically diverse staff appropriate to child enrollment.

(i)(1) Between June 1 and May 31 or July 1 and June 30 each year, all ABC Program teachers shall participate in a minimum of thirty (30) hours of staff development on topics pertinent to early childhood education and approved by the division.

(2) All ABC Program paraprofessionals shall participate in a minimum of fifteen (15) hours of staff development on topics:

- (A) Pertinent to early childhood education; and
- (B) Approved by the division.

(3) 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.

(4) Programs should multiply semester hours by five (5) to obtain the number of semester hours counted towards ABC Program professional development.

**(j)(1) Training areas.**

(A) Teachers and paraprofessionals shall be required to engage in professional development focused on early childhood learnings and programs approved by the Office of Early Childhood.

(B) Topics may include:

- (i) Academics;
- (ii) Family and community engagement;
- (iii) Program quality;
- (iv) Human capital;
- (v) Program management; and
- (vi) Child development and growth.

(2) With the exception of annual child development and early learning standards, curriculum, child assessment, and classroom quality refresher training and updates, timeframes for completing such requirements may vary with availability and access to the above trainings.

(3) The division may mandate additional training subject to needs in various locations.

(k)(1) In addition to the requirements of subsection (j) of this section, coordinators for each ABC Program shall ensure that all appropriate staff members attend mandatory ABC Program training (budgets, reporting, assessments, information technology, and others) provided by the division.

(2) Programs with staff members not adhering to these requirements are subject to the terms of a compliance plan as outlined in 6 CAR § 100-219.

(l)(1) The ABC Program coordinator and all ABC Program staff shall register with the office-approved professional development system.

(2) The registry identification number for each staff shall be entered into the required state data system.

(m)(1) ABC Programs shall establish an employment agreement in writing with all classroom staff.

(2) This agreement shall outline:

- (A) Working conditions;
- (B) Dates and hours of employment;
- (C) Compensation; and
- (D) Fringe benefits.

(3) A copy of the public school teacher contract shall satisfy this requirement.

**6 CAR § 100-209. Staffing patterns/ and, or, or classroom programs.**

(a)(1) Single classroom sites for preschool shall have a teacher qualified under 6 CAR § 100-208(a) and (b).

(2) Classrooms with over ten (10) children must have a paraprofessional qualified under 6 CAR § 100-208(c).

(b) For ABC Programs operating infant/ and, or, or toddler classrooms, programs must have one (1) qualified caregiver meeting the requirements of 6 CAR § 100-208(f) for either every four (4) children (infants) or seven (7) children (toddlers).

(c) In multiclassroom 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

(d)(1) A classroom that is partitioned in any way may be considered multiple classroom space by the Division of Elementary and Secondary Education.

(2) Factors to be considered in this decision shall include supervision issues as well as level of staff qualifications in the classroom areas.

**6 CAR § 100-210. Program standards.**

(a) Programs shall demonstrate that the classroom environment provides:

- (1) Developmentally appropriate practices;
- (2) Play-based learning;
- (3) Responsive teaching that builds positive relationships;
- (4) Individualized instruction;
- (5) Reflective teaching;
- (6) Inquiry-based learning; and
- (7) Collaboration with families.

(b)(1) Each classroom shall be equipped with toys, books, and play apparatus to:

- (A) Take care of the needs of the total group; and
- (B) Provide each child with a variety of activities throughout the day.

(2) A variety of equipment shall be:

- (A) Accessible from low shelves to children of all ages; and
- (B) Arranged in learning centers.

(c)(1) The program shall be individualized to meet the needs of each student enrolled.

(2) Each curriculum model and the actual classroom practice will be assessed using the applicable state-approved classroom assessment tool to ensure the model is developmentally appropriate.

(d) The program shall have a written overall curriculum plan that:

- (1) Is arranged in thematic:
  - (A) Units;
  - (B) Projects; or
  - (C) Topics of study; and
- (2) Includes goals and objectives related to the following:
  - (A) Social/ and, or, or emotional development;
  - (B) Creative/ and, or, or aesthetic learning;
  - (C) Cognitive/ and, or, or intellectual learning;
  - (D) Math, science, and problem solving;
  - (E) Physical development; and
  - (F) Language and literacy based on the science of reading.

(e)(1) All programs must utilize a curriculum approved by the Division of Elementary and Secondary Education.

(2) A list of approved curriculum models will be made available by the division on an annual basis.

(3) A program wishing to use a curriculum not on the list may request, in writing to the division, consideration of an additional curriculum.

(4) Program coordinators shall ensure teachers have adequate training on curriculum.

(f) Children shall participate in a daily schedule that reflects a balance among the following types of activities:

- (1) Indoor/ and, or, or outdoor;
- (2) Quiet/ and, or, or active;
- (3) Individual,/ small group,/ and, or, or large group;
- (4) Gross motor/ and, or, or fine motor; and
- (5) Child-initiated/ and, or, or teacher-initiated.

(g)(1) Routine and transition times throughout the day, such as preparing for mealtime, shall be used as opportunities for incidental learning.

- (2) Transition times shall be planned to avoid:
  - (A) Frequent disruption of children's activities; and

(B) Long waits between activities.

(h)(1) Programs shall maintain an individual child record onsite.

(2) At a minimum, the record shall contain copies of:

(A) Birth certificate, hospital birth record, or other official verification of birth date;

(B) Documentation of child eligibility;

(C) Completed and dated application form;

(D) Emergency information, including nonparental contact and medical information;

(E) Parental authorization for:

(i) Medical care;

(ii) Daily pickup; and

(iii) Field trips;

(F) Field trip authorization;

(G) Completed health form and immunization record or proof of current immunizations;

(H) Record of completed developmental screening;

(I) Samples of child's work;

(J) Teacher and parent observations and summaries of parent-teacher conferences; and

(K) Child Assessment Developmental Checklists.

(3)(A) Child records or any ABC Program 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.

(B) The child record shall be available for inspection by Office of Early Childhood staff.

(C) If certain records must be stored offsite, copies shall be made and given to teachers to maintain in a record onsite.

(D) In maintaining and updating child and family data, ABC Programs shall utilize the state data system.

(E) 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 disenrollment from the program or forward the record to the child's kindergarten program.

(i)(1) Provision should be made through program design and networking efforts to ease the transition of children moving:

(A) From one (1) program or age grouping to another; or

(B) To public school kindergartens.

(2) This provision must include:

(A) Individual needs assessments on each child; and

(B) Kindergarten readiness outcomes aligned to the state-approved child assessment.

(3) At a minimum, the transition plan shall involve parents and appropriate school district personnel.

(j)(1) ABC Programs are required to provide nutritious meals and snacks for all children enrolled in ABC/ and, or, or ABCSS Programs.

(2) The National School Lunch Program (NSLP) provides free or reduced-price meals to eligible children attending a public school preK program based on their household income.

(3) Special Nutrition Programs provide reimbursement for meals served to children enrolled in:

(A) The Child Care Food Programs (CACFP);

(B) NSLP; and

(C) The Summer Food Service Program.

(4) Mealtime is an opportunity to engage children in conversation about the day and themselves.

(5) ABC Program staff shall participate with the children during this time.

(6) Children shall be given an appropriate amount of time for meals and conversation.

(k)(1) Parents or guardians of children qualified as eligible for ABC Program services shall not be required to pay any fees or provide food or supplies during ABC Program hours.

(2) This includes:

- (A) Enrollment fees;
- (B) Field trip expenses; or
- (C) Uniforms.

(l)(1) Electronic mail is a necessary means by which the office communicates vital information to programs.

(2) All participating programs must maintain a working email address that is checked daily.

(3) Applicable information shall be distributed to classroom staff by the program coordinator.

**6 CAR § 100-211. Classroom management/ and, or, or special education.**

(a)(1) No child in an ABC Program shall be dismissed or expelled from the program for behavior without approval from the Office of Early Childhood.

(2) The Multi-Tiered System of Supports Framework assists programs and staff with supports to promote social, emotional, and behavioral outcomes of young children ages birth to five (5), promoting the use of positive behavioral interventions, promoting family engagement, using data for decision-making, and integrating early childhood and infant mental health consultation.

**(b) Behavior guidance.**

(1) Discipline shall:

- (A) Reflect positive guidance;
- (B) Be consistent;
- (C) Be individualized for each child; and
- (D) Be appropriate to the child's level of understanding.

(3) Corporal punishment is an unacceptable method of discipline and shall not be used.

(4) Programs shall specifically define their approach to handling inappropriate behavior in the parent handbook.

(c)(1) When a child presents with challenging behavior, teaching staff shall use the following standards:

(A) Observe the children, then identify events, activities, interactions, and other factors that predict and may contribute to challenging behavior;

(B) Rather than focus only on eliminating the behavior, teaching staff shall focus on teaching the child social, communication, and emotional regulation skills using environmental modifications, activity modifications, adult or peer support, and other teaching strategies to support the child's appropriate behavior; and

(C) Teaching staff shall respond to challenging behavior, including physical aggression, in a manner that:

(i) Provides safety of the child;

(ii) Provides for the safety of others in the classroom;

(iii) Is calm;

(iv) Is respectful to the child; and

(v) Provides the child with information on acceptable behavior.

(d)(1) 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.

(2) Teachers should request technical assistance from the division on any discipline issues on which they have questions.

(e) **Professional services.**

(1) If necessary, intervention shall ensure each child has access to professional services, such as referrals to:

(A) The education cooperative behavioral specialist;

(B) The division-funded regional support network for early autism identification; and

(C) The community mental health center and a private therapist.

(2) If a child in question has a disability and is in the process or has been identified under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., the ABC Program shall follow state special education rules governing suspension/ and, or, or expulsion.

(f) If children demonstrate challenging behavior, the ABC Program shall consult with BehaviorHelp and the Early Childhood Special Education program regarding classroom modifications and interventions.

(g) For any ABC Program 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.

(h)(1) For any ABC Program 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.

(2) 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.

(3) Access to proprietary information on the child shall be on a need-to-know basis.

(i)(1) A child shall not be dismissed from the ABC Program due to a lack of toileting development skills.

(2) Nor may a program refuse to admit a child because of toileting development issues if the child meets all other age and income eligibility requirements.

(j)(1) ABC Programs shall assist children not yet toilet-developed with cooperation and enthusiasm.

(2) Programs shall not employ toilet-development techniques that could be construed as punishment or shaming the child.

(3) Programs are encouraged to include the parent or guardian in any plan so it may be reinforced at home.

(4) Funds from the ABC Program may be used to purchase resources necessary to support toilet development.

**6 CAR § 100-212. Assessment and screenings.**

(a) The Division of Elementary and Secondary Education and the Office of Early Childhood shall work cooperatively to ensure that the assessments are conducted as required by the Arkansas Better Chance Program Act, Arkansas Code § 6-45-101 et seq.

(b) Children in the ABC Program shall be assessed annually by an office-approved assessment tool to provide an indication of each child's progress towards kindergarten readiness.

(c)(1) The assessment shall:

(A) Address a child's:

(i) Strengths;

(ii) Progress; and

(iii) Needs; and

(B) Serve as a central part of an effective early childhood program.

(2) The assessment instrument selected by the division and the office shall be used for children enrolled in an ABC Program.

(d)(1) A comprehensive longitudinal study shall be implemented to evaluate the ABC Program to ensure that the program goals are achieved.

(2) The study will be designed to use sound research-based evidence to determine whether the programs meet the expected standards.

(3) This research shall include children entering the program at ages three (3) and four (4) and follow the children through completion of the fourth-grade state assessments.

(4) Research results will be provided annually to the:

(A) Governor;

(B) Interim Senate Committee on Education; and

(C) Interim House Committee on Education.

(e)(1) Within forty-five (45) days of entering an ABC Program, a child shall receive a routine annual developmental screening to determine individual needs.

(2) The program agency shall be responsible for completing the developmental screening.

(3) The purpose of screening is to identify developmental delays and, or, or educational deficiencies.

(4) Children so identified shall be referred to special education within seven (7) calendar days of the date of screening.

(5) Programs shall comply with state and federal laws for special needs students.

(f) The developmental screening must include, at a minimum, the following areas:

- (1) Vocabulary;
- (2) Visual-motor integration;
- (3) Language and speech development;
- (4) Fine and gross motor skills;
- (5) Social skills; and
- (6) Developmental milestones.

(g) The division will provide a list to programs of all acceptable developmental screening instruments on an annual basis.

(h)(1) Within forty-five (45) days of the first day of attendance, every child shall receive an age-appropriate health screening that includes a hearing and vision test performed by a licensed physician or physician assistant.

(2) Programs should contact the division for information on seeking a waiver under Arkansas Code § 6-18-701.

(3) Programs shall work in partnership with parents to obtain health screening information.

(i)(1) On or before the first day of attendance, parents or guardians shall provide proof that their child is:

- (A) Current on all required immunizations; or

(B) On an acceptable catch-up schedule.

(2) A waiver from this requirement may be granted from the Department of Health under Arkansas Code § 6-18-702.

(j)(1) Every classroom shall be equipped with a computer with high-speed internet access where available in the state.

(2) Each home-based educator shall also have such access to a computer.

(3) This equipment is necessary for the timely completion of enrollment data in the state data system and assessment data in the required Child Assessment System.

### **6 CAR § 100-213. Parent and community involvement.**

(a)(1) Each program shall have a plan for parent involvement that includes opportunities for parental input into program operation and design.

(2) Parent involvement plans shall include:

(A) A mechanism for parental advice and review of programmatic plans;

(B) Parent conferences; and

(C) A method to involve the parent in the child's educational experience.

(b)(1) The program shall have an open-door policy for parents that encourages visiting and participation in classroom activities.

(2) Opportunities for at least two (2) parent-teacher conferences shall be given to parents.

(c) The program shall publish and utilize a parent handbook that includes ABC requirements for the ABC Program.

(d)(1) Each program shall have a plan for community/, school district/, education service cooperative,/, and 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.

(2) Programs should consider providing opportunities for community representatives to participate in the educational activities of the classroom.

### **6 CAR § 100-214. Transportation.**

(a) 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 Pre-school Age Children in School Buses as well as childcare licensing standards, regulating the transportation of children.

(b)(1) Offering transportation to and from an ABC Program is strictly optional.

(2) The Division of Elementary and Secondary Education accepts no liability for the transportation of children participating in an ABC Program.

(3) Program agencies shall be responsible for the actions of their drivers.

(4) Drivers are subject to all background checks and exclusionary violations applicable to school district employees having contact with children.

(c)(1) An ABC Program 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.

(2) Programs shall never release an ABC Program child from the vehicle alone.

(3) After exiting the vehicle, an ABC Program child shall not cross a street unless accompanied by the authorized adult.

#### **6 CAR § 100-215. Other program models.**

(a)(1) Alternate programs may include, but are not limited to:

(A) Licensed childcare family home;

(B) PAT; and

(C) HIPPY.

(2) These programs will comply, where applicable, with the rules herein.

(b) All ABC Program-funded alternate program models will:

(1) Be developmentally appropriate;

(2) Meet applicable health and safety standards;

(3) Provide developmental and health screenings; and

(4) Ensure immunizations of the child served.

#### **6 CAR § 100-216. HIPPY regulations.**

(a) HIPPY programs shall meet program criteria as outlined in the contractual agreement signed by each site with Arkansas Children's Hospital and HIPPY.

(b)(1) Each HIPPY program serving at least one hundred sixty (160) families must have one (1) full-time coordinator holding a minimum of a bachelor's degree in:

- (A) Education;
- (B) Social work;
- (C) Sociology;
- (D) Psychology; or
- (E) A related field.

(2) Those coordinators without a related degree must obtain at least twelve (12) college course hours in early childhood.

(3) Programs with more than two hundred fifty (250) children must also have at least one (1) part-time coordinator who holds a minimum of an associate degree in:

- (A) Early childhood education;
- (B) Social work;
- (C) Psychology; or
- (D) A related field.

(4) Coordinators shall also meet additional job requirements as described in the HIPPY Coordinator job description.

(5) HIPPY Coordinators must attend National HIPPY Preservice Training and receive certification.

(6) Regardless of the number of children served, HIPPY agencies must make provision to ensure all home-based visitors are supervised appropriately by trained staff.

(c)(1) Home-based educators working thirty-one through forty (31 – 40) hours per week may not serve more than twenty-seven (27) families.

(2) Minimum requirements for home educators include a high school diploma/and, or, or GED and a current CDA credential.

(3) All new HIPPY home-based educators are required to attend new Home-based Educators Training provided by HIPPY Arkansas.

(d)(1) Hiring of any HIPPY Coordinator or home-based educator not meeting the requirements of subsections (b) and (c) of this section must be approved by the Division of Elementary and Secondary Education through a Staff Qualifications Plan.

(2) The division shall monitor such plans to ensure adequate progress is being made.

(3) HIPPY Coordinators working under a Staff Qualifications Plan must obtain at least twelve (12) college hours per year.

(e)(1) HIPPY programs must follow the child eligibility requirements found in 6 CAR § 100-201.

(2) However, the cutoff date for determining age eligibility for children served in HIPPY is December 31 of each year.

(f)(1) In order to dually enroll a child in an ABC Program center and HIPPY, a child must meet the ABC Program income requirements (less than two hundred percent (200%) FPL) plus possess at least one (1) of the following factors:

- (A) Parents without high school diploma or GED;
- (B) Birth weight less than five pounds, nine ounces (5 lbs. 9 ozs.);
- (C) Parent is fewer than eighteen (18) years of age at child's birth;
- (D) Family has a history of substance abuse/addiction;
- (E) Eligible for services under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.;
- (F) Parent has a history of abuse or neglect or is a victim of abuse or neglect;
- (G) Child exhibits a demonstrable developmental delay as identified through an appropriate screening;
- (H) Child lives in a single-parent household or has parents who are divorced;
- (I) Child is a foster child;
- (J) Child has an incarcerated parent;
- (K) Child has parents who cannot read;
- (L) Child is homeless;

(M) Child or parent has limited English proficiency; or

(N) Child is in the custody of a family member other than mother and father.

(2) Whichever program enrolls the child at the later date shall be responsible for verifying eligibility for dual enrollment.

(3) Dual enrollment shall not exceed twenty-five percent (25%) of the program's total ABC Program enrollment.

(4) If the same agency operates both a center-based and home-visiting program, dual enrollment shall not exceed twenty-five percent (25%) of the average of both programs' enrollments.

(g) Center-based and home-visiting programs shall collaborate in providing services to any child qualifying for dual enrollment under subsection (f) of this section.

(h)(1) The HIPPY Arkansas Training and Technical Assistance Office will monitor and assist HIPPY programs throughout the state.

(2) Annual program site reviews and assessments will be forwarded to the division for consideration of program compliance and funding renewal.

(3) The HIPPY Arkansas Training and Technical Assistance Office will assist the division with determining program compliance at the local level.

(i) HIPPY programs shall meet requirements as set forth in 6 CAR §§ 100-201 – 100-206 and 6 CAR §§ 100-210 – 100-213.

(j) Group meetings should reflect the educational programming standards as set forth in 6 CAR § 100-210 and guidelines set forth in the HIPPY model.

(k) Any enhancements designed to complement the HIPPY curriculum must be approved by the HIPPY Arkansas Training and Technical Assistance Office prior to implementation with families.

### **6 CAR § 100-217. Parents as Teachers regulations.**

(a) PAT programs shall meet program criteria as outlined in the PAT program Implementation and Planning Guide.

(b) All PAT coordinators must attend the PAT Institute Training and obtain either a Parent Educator Certificate or an Administrator's Certificate.

(c) Each program must have a certified Parent Educator, who may also serve as Coordinator.

(d) PAT parent educators working on a part-time basis (twenty (20) hours per week) should serve thirty (30) and not more than forty (40) children and their families.

(e)(1) PAT programs shall operate on a twelve-month, year-round basis.

(2) Families must be offered:

(A) Twelve (12) personal visits; and

(B) Six (6) parent group meetings.

(f) PAT programs shall follow the child eligibility requirements found in 6 CAR § 100-201.

(g) PAT programs may dually enroll children also participating in a center-based program under the guidelines of 6 CAR § 100-216(f) and (g).

(h) PAT programs must coordinate services with HIPPIY programs where both exist in the same community to avoid duplication of services.

(i) PAT programs shall meet requirements as set forth in 6 CAR §§ 100-201 – 100-204 and 6 CAR §§ 100-211 – 100-213.

### **6 CAR § 100-218. Childcare family homes.**

(a) Licensed childcare family homes participating in the ABC Program must meet the same requirements as an ABC Program center, except where listed in this section.

(b) Group size for an ABC Program classroom in a CCFH shall not exceed sixteen (16) children or maximum licensing capacity, whichever is less.

(c)(1) The ABC Program family home teacher must:

(A) Possess a minimum of a CDA credential; and

(B) File a Staff Qualifications Plan that outlines a plan to complete a four-year degree in early childhood or child development.

(2) For any ABC Program room with more than ten (10) children, an additional staff person with a minimum of a CDA credential must also be present.

(d)(1) No SQP shall be approved for an ABC Program family home teacher to complete a CDA credential or associate degree.

(2) The only SQP that shall be approved for an ABC Program family home teacher is for a four-year degree in early childhood or child development.

(e)(1) In evaluating the ABC Program in a CCFH, the applicable program quality assessment tool for family homes shall be utilized.

(2) Family homes shall be subject to the same guidelines as listed in 6 CAR § 100-206.

### **6 CAR § 100-219. Compliance.**

(a)(1) Any person may make a formal complaint with the Office of Early Childhood if that person has reason to believe that an ABC Program provider failed to comply with this part or the Arkansas Better Chance Program Act, Arkansas Code § 6-45-101 et seq.

(2) The formal complaint shall include the following:

(A) The name, phone number, and address of the complaining party;

(B) The name of the ABC Program complained of;

(C) A brief description of the acts or omissions the complaining party has reason to believe constitute a violation of this part or the Arkansas Better Chance Program Act;

(D) Documents, if any, that support the complaint; and

(E) The names and contact information, if known, of any witnesses who may possess information relevant to the complaint.

(3) Signed complaints shall be submitted to the office at the following email address: [OEC.ABC@ade.Arkansas.gov](mailto:OEC.ABC@ade.Arkansas.gov).

(4)(A) Office staff shall investigate the complaint.

(B) The investigation shall afford an opportunity for the ABC Program provider to respond to the complaint.

(b)(1) An ABC Program found to be out of compliance with any ABC Program rule shall be placed on a sixty-day compliance plan.

(2) During this probationary period, a program must:

- (A) Make all necessary corrections; or
  - (B) Be subject to termination from the ABC Program.
- (3) Compliance deficiencies may also result in:
- (A) Immediate termination from the ABC Program;
  - (B) Denial of future ABC Program funds;
  - (C) Repayment of funds; and
  - (D) Exclusion from participation in any Department of Human Services programs.
- (c) Issues for a compliance plan may include, but are not limited to:
- (1) Founded licensing or maltreatment complaints;
  - (2) Violations of minimum licensing standards;
  - (3) Revocation of Quality Approval status or failing to meet Quality Approval standards;
  - (4) Financial mismanagement, including use of funds for programs other than ABC Programs as set forth in this part;
  - (5) Failure to operate the program in accordance with approved budget or any part of an approved grant application;
  - (6) Enrolling ineligible children or refusing to enroll an eligible child due to toilet-development issues or nonpayment of other childcare fees;
  - (7) Habitually late reports or missing information;
  - (8) Failure to report a change in program status within five (5) working days;
  - (9) Program deficiencies documented by the Division of Elementary and Secondary Education or any authorized representative;
  - (10) Erroneous or fraudulent billing of division vouchers or Special Nutrition Programs;
  - (11) Falsification of any document or information;
  - (12) Hiring of unqualified staff without consultation with the division on a Staff Qualifications Plan;
  - (13) Staff members not meeting the requirements of a Staff Qualifications Plan;

(14) Dismissing or expelling a child from a program without approval from the division; and

(15) Contact for a support services specialist.

(d)(1) Any program that submits a falsified document will be subject to an immediate investigation for agency action.

(2) Agency actions may include:

(A) Termination from the ABC Program;

(B) Repayment of funds; and

(C) Possible referral of program officials and, or, or responsible employees for criminal prosecution.

(e)(1) An ABC Program may appeal any adverse action taken by the division.

(2) Such appeals must be in writing and be received within thirty (30) days of the notice of corrective action.

(3) A program wishing to appeal should send a written notice to Attention: DESE Assistant Commissioner or designee for the office, at:

[OEC.ABC@ade.Arkansas.gov](mailto:OEC.ABC@ade.Arkansas.gov).

(4) The assistant commissioner or designee for the office will make a recommendation to the State Board of Education, which will issue a final ruling.

### **Subpart 3. Additional Rules Concerning the Use of Arkansas Better Chance Program Funds**

#### **6 CAR § 100-301. Purpose.**

To ensure that public funds are spent in compliance with the First Amendment of the United States Constitution, which prohibits any state or federal "law respecting an establishment of religion, or prohibiting the free exercise thereof".

#### **6 CAR § 100-302. Limitation.**

(a) This subpart is not an exhaustive list of criteria to test constitutional sufficiency.

(b) The question in every case is whether state funds impermissibly aid a religiously based or affiliated entity in discharging its religious mission.

(c) The answer will be controlled by the particular facts of each case.

### **6 CAR § 100-303. Definitions.**

As used in this subpart:

(1) "ABC day" means the seven (7) hours beginning with the first ABC Program activity of the day and includes all activities described in 6 CAR § 100-210;

(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 Program provider uses to impart knowledge during an ABC Program day;

(3) "Administrative costs" means:

(A) Salaries (including fringe) — Director and assistant director;

(B) Salaries — Housekeeping;

(C) Group health insurance;

(D) Childcare center liability insurance;

(E) Pensions;

(F) Unemployment taxes;

(G) Workers' compensation;

(H) Accounting fees;

(I) Housekeeping supplies; and

(J) Criminal background checks;

(4) "Professional services" means, without limitation:

(A) Assessment;

(B) Screening;

(C) Instruction; and

(D) Parent and, or, or community engagement activities;

(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; and

(6) "Secular" means not related to religion.

**6 CAR § 100-304. Conditions of participation as an ABC Program provider.**

(a) ABC Programs must admit eligible students without regard to:

- (1) Race;
- (2) Gender;
- (3) National origin;
- (4) Ancestry;
- (5) Color;
- (6) Disability;
- (7) Creed;
- (8) Political affiliation; or
- (9) Religion.

(b) ABC Program funds must be used exclusively for the following expenses incurred to provide ABC Program services:

- (1) Professional services (compensation and fringe benefits);
- (2) Assessment and screening tools;
- (3) Instructional materials;
- (4) Transportation to and from ABC Programs;
- (5) Staff development;
- (6) Financial assistance for staff working towards a secular degree or credential relating to early childhood education, including but not limited to:

- (A) Books;
- (B) Tuition; and
- (C) Travel; and

(7) If ABC Program funds remain after paying the expenses described in subdivisions (b)(1) – (6) of this section, those funds may be used to:

- (A) Provide food for ABC Program students; and

(B) Pay that portion of administration costs, utilities, or both attributable to daycare operations multiplied by the following fraction:

- (i) Number of ABC Program students; divided by
- (ii) Total number of daycare students.

(c) All ABC Program instruction and instruction materials must be secular and neutral with respect to religion.

(d) No religious activity may occur during any ABC Program day and no ABC Program funds may be used to support religious services, instruction, or programming at any time.

(e) Each ABC Program provider must maintain documentation that it has provided parents and guardians with the following written notice:

“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 Program funds must be used exclusively to support allowable ABC Program costs incurred to provide non-religious instruction and activities during the ABC Program day; and
- (b) No religious activity may occur during any ABC Program day regardless of the source of funds used to support the activity.”

(f) Each ABC Program provider must:

- (1) Annually certify compliance with each requirement of this part; and
- (2) Agree to such unannounced public inspection and investigation as may be necessary to ascertain and monitor the provider’s compliance.

(g)(1) Each ABC Program provider must establish and maintain a separate bank account for the deposit, transfer, and withdrawal of all ABC Program funds.

(2) No other funds of the ABC Program provider shall be commingled in the bank account with ABC Program funds and no ABC Program funds shall be placed in another bank account maintained by the ABC Program provider.