



Division of Elementary and Secondary Education

Transforming Arkansas to lead the nation in student-focused education

Johnny Key
Secretary

December 29, 2021

Dr. Ivy Pfeffer
Deputy
Commissioner

Ms. Jessica Whittaker
Rules Administrator
Bureau of Legislative Research
One Capitol Mall, Fifth Floor
Little Rock, AR 72201

Stacy Smith
Deputy
Commissioner

**State Board of
Education**

**Re: For Public Comment Release: Division of Elementary and Secondary
Education Rules Governing The Arkansas Tutoring Corps**

Ouida Newton
Poyen
Chair

Dear Ms. Whittaker:

Attached are the proposed rules as well as a post-public comment summary, a Financial Impact Statement, and a summary of public comments and Division responses. The Division respectfully requests that the proposed rules be placed on the ALC Administrative Rules Subcommittee agenda.

Dr. Sarah Moore
Stuttgart
Vice Chair

On September 9, 2021, the State Board of Education approved the release of these rules for public comment pending the approval of the Governor's Office. On October 20, 2021, the Governor's Office approved them for public comment release. On December 29, 2021, the State Board of Education gave its final approval of the rules.

Charisse Dean
Little Rock

Dr. Fitz Hill
Little Rock

Thank you for your assistance. If you have any questions or require further information, please do not hesitate to call me at (501) 683-1876.

Kathy McFetridge
Springdale

Respectfully submitted,

Steve Sutton
Marion

/s/ Whitney James
Staff Attorney
Arkansas Department of Education

Adrienne Woods
Rogers

**Dr. Beth Anne
Rankin**
Magnolia

Randy Henderson
Blytheville

**ARKANSAS DIVISION OF ELEMENTARY AND SECONDARY EDUCATION
RULES GOVERNING THE ARKANSAS TUTORING CORPS**

1.00 REGULATORY AUTHORITY AND PURPOSE

1.01 These rules shall be known as the Arkansas Department of Education Division of Elementary and Secondary Education Rules Governing the Arkansas Tutoring Corps.

1.02 These rules are enacted pursuant to the Arkansas State Board of Education's authority under Ark. Code Ann. §§ 6-11-105, 25-15-201 *et. seq.*, and Ark. Code Ann. § 6-15-3104.

1.03 The purpose of these rules is to establish the requirements and processes governing the Arkansas Tutoring Corps.

2.00 LEGISLATIVE INTENT

2.01 It is the intent of the Arkansas General Assembly to address learning loss by providing readily accessible tutors to Arkansas students preparing to enter kindergarten through grade six (K-6).

3.00 TUTORING PROGRAM

3.01 The Division of Elementary and Secondary Education shall oversee the establishment of the Arkansas Tutoring Corps.

3.02 The Division shall identify a curriculum aligned with Arkansas academic standards and developed to support children in the content areas of math and literacy.

3.03 The program shall be administered in collaboration with the state's Education Renewal Zones (ERZ)s.

3.04 The ERZs shall:

3.04.1 Conduct needs assessments to determine the number of tutors needed in each area or ERZ;

3.04.2 Ensure that tutoring services are prioritized for students in rural areas and other underserved students;

3.04.3 Actively recruit individuals to become tutors. These individuals may be, but are not limited to, the following:

3.04.3.1 Individuals enrolled in a teacher preparation program;

3.04.3.2 Retired teachers;

3.04.3.3 Teachers who are currently certified;

3.04.3.4 College students; and/or

3.04.3.5 AmeriCorps members or volunteers.

3.04.4 Assist in securing tutoring assignments;

3.04.5 Provide training modules for tutors;

3.04.6 Provide ongoing support for tutors;

3.04.7 Keep ongoing documentation of hours worked by:

3.04.7.1 A tutor in a public school.

3.04.7.2 A tutor in a private school.

3.04.7.3 A tutor in a community or faith-based program or residential facility.

3.04.7.4 Community service volunteer approved by the ERZ or the Division.

3.04.8 Maintain a database of tutoring candidates to monitor progress for tutors completing initial certification and maintaining certification;

3.04.9 Maintain a database of school district feedback regarding the effect of tutoring on student progress; and

3.04.10 Create and maintain a network of approved Arkansas tutoring sites to link to qualified tutors.

3.05 The Division shall monitor the effectiveness of the program annually.

3.06 Continuation of the Arkansas Tutoring Corps program shall be contingent upon available funding.

4.00 THE ARKANSAS TUTORING CORPS

- 4.01 To become a certified member of the Arkansas Tutoring Corps, a candidate must complete initial training and certification, which will be done in two phases.
- 4.02 In order to become an Arkansas Tutoring Corps qualified tutor, an individual must meet the requirements of Phase I of the program, which include:
- 4.02.1 Completion and approval of Arkansas Tutoring Corps application;
- 4.02.2 Successful completion of background checks, including: an Arkansas Child Maltreatment Central Registry Background Check and an Arkansas State Police/FBI background check, which must include the taking of fingerprints.
- 4.02.2.1 Background check must be completed within twelve (12) months prior to application or before being approved as a “qualified tutor”;
- 4.02.2.2 No waivers will be granted via the Arkansas Tutoring Corps program for a disqualifying offense; and
- 4.02.2.3 Approved tutors are required to notify the Division of Elementary and Secondary Education of subsequent conviction(s) of disqualifying offenses or true finding(s) and placement on Child Maltreatment Central Registry.
- 4.02.3 Completion of initial Arkansas Tutoring Corps training that prepares candidates to effectively utilize the identified curriculum chosen by the Division.
- 4.03 Upon completion of Phase I, candidates become a qualified tutor. A qualified tutor may contract with approved tutoring sites to provide tutoring services for students as part of the Arkansas Tutoring Corps. A qualified tutor may be compensated for tutoring services in addition to any compensation received as part of this program.
- 4.04 In order for a qualified tutor to be recognized as an Arkansas Tutoring Corps Certified Member, a tutor must complete Phase II of the program, which includes:
- 4.04.1 Completion of five (5) prescribed Professional Learning Modules;
- 4.04.2 With support of the ERZ, secure a tutoring assignment(s) with one or

more approved tutoring sites; and

4.04.3 Documentation of a total of at least 175 hours of tutoring at one or more approved, qualified tutoring sites, which include:

4.04.3.1 A public school or open-enrollment public charter school located within Arkansas;

4.04.3.2 An education service cooperative;

4.04.3.3 An institution of higher education located within Arkansas; or

4.04.3.4 A community facility that meets the requirements established by the division.

4.05 To maintain status as an Arkansas Tutoring Corps Certified Member, a tutor must annually:

4.05.1 Participate in the renewal process, which includes additional training developed and specified by the program; and

4.05.2 Continue tutoring at approved tutoring sites;

4.05.3 Document at least a total of 175 hours of tutoring at an approved, qualified tutoring site annually.

4.06 The Arkansas Tutoring Corps program runs from September 1 through August 31 each year. Arkansas Tutoring Corps certified members will have priority placement in tutoring sites and an expedited renewal process.

SUMMARY OF PROPOSED NEW RULE

DIVISION OF ELEMENTARY AND SECONDARY EDUCATION RULES GOVERNING THE ARKANSAS TUTORING CORPS

These rules were created per Ark. Code Ann. §6-15-3104 to set out the responsibilities and processes of the Arkansas Tutoring Corps as well as define terms related to the program. The rules define the requirements individuals must meet to become qualified tutors and Arkansas Tutoring Corps certified members. The rules also define qualified tutoring sites.

The rules set out the responsibilities of The Arkansas Tutoring Corps. These responsibilities include identifying curriculum as well as assessing the needs to tutors across the state. Additionally, responsibilities include retaining tutors, training tutors and providing support as well as maintaining data related to the program.

The rules also list the responsibilities of Education Renewal Zones (ERZs).

DESE RULES GOVERNING THE ARKANSAS TUTORING CORPS

Public Comments and Responses of the Division of Elementary and Secondary Education

Commenter Name: Lucas Harder, Arkansas School Boards Association (11/1/21)

Comment (1): Section 3.01 – I would recommend changing this to be “Division of Elementary and Secondary Education (Division)”.

Division Response: Comment considered. **Non-substantive change made.**

Comment (2): Section 3.04 - “Education Renewal Zones (ERZ)s” can be shortened to “ERZs” as the long form and parenthetical abbreviation were set forth in Section 3.03.

Division Response: Comment considered. **Non-substantive change made.**

Comment (3): Section 3.04.1 – “Education Renewal Zones (ERZ)s” can be shortened to “ERZs” as the long form and parenthetical abbreviation were set forth in Section 3.03.

Division Response: Comment considered. **Non-substantive change made.**

Comment (4): Section 3.04.3 - “but are not” has been flipped so that it reads “but not are”.

Division Response: Comment considered. **Non-substantive change made.**

Comment (5): Section 3.04.7.4 - “Education Renewal Zone” could be shorted to “ERZ” as the long form and parenthetical abbreviation were previously set forth in Section 3.03. “Division of Elementary and Secondary Education” could be shortened to just “Division” especially if the long form and parenthetical are set forth at 3.01.

Division Response: Comments considered. **Non-substantive changes made.**

Comment (6): Section 4.02.2 - I would recommend changing this to read “Successful completion of background checks, including: an Arkansas Child Maltreatment Central Registry Background Check and an Arkansas State Police/FBI background check, which must include the taking of fingerprints.”

Division Response: Comment considered. **Non-substantive change made.**

Comment (7): Section 4.02.2.1 - I’d recommend changing this to be “An applicant’s background check must”.

Division Response: Comment considered. The rules refer to “candidates” rather than “applicants.”

Comment (8): Section 4.02.2.2 - I'd recommend changing this to read "No waivers will be granted for a disqualifying offense to applicants for participation in the Arkansas Tutoring Corps program ;"

Division Response: Comment considered. The rules do not intend to state that no waivers will be granted for a disqualifying offense to applicants for participation in the program; rather, the rules clarify that a candidate will not be able to seek a waiver via the program for a disqualifying offense.

Comment (9): Section 4.02.2.3 - I'd recommend changing this to read "Approved tutors are required to notify the Division of subsequent conviction(s) of disqualifying offenses or a true finding(s) and placement on the Child Maltreatment Central Registry."

Division Response: Comment considered. **Non-substantive change made.**

Comment (10): Section 4.04.3 - I'd recommend changing to read "At least 175 documented hours of tutoring at one or more approved, qualified tutoring sites, which include:".

Division Response: Comment considered. **Non-substantive change made.**

Comment (11): Section 4.05.3 - I'd recommend changing this to "Document at least 175 hours of".

Division Response: Comment considered. **Non-substantive change made.**

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Department of Education
DIVISION Division of Elementary and Secondary Education
PERSON COMPLETING THIS STATEMENT Whitney James
TELEPHONE NO. (501) 683-1876 **FAX NO.** (501) 682-4249 **EMAIL:** Whitney.James@ade.arkansas.gov

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

SHORT TITLE OF THIS RULE Rules Governing the Arkansas Tutoring Corps

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

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

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

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

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

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

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

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

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

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

Current Fiscal Year

Next Fiscal Year

General Revenue \$ 0.00
 Federal Funds \$ 0.00
 Cash Funds \$ 0.00
 Special Revenue \$ 0.00
 Other (Identify) \$ 0.00
 Total \$ 0.00

General Revenue \$ 0.00
 Federal Funds \$ 0.00
 Cash Funds \$ 0.00
 Special Revenue \$ 0.00
 Other (Identify) \$ 0.00
 Total \$ 0.00

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

Current Fiscal Year

Next Fiscal Year

General Revenue \$ 0.00
 Federal Funds \$ 0.00
 Cash Funds \$ 0.00
 Special Revenue \$ 0.00
 Other (Identify) \$ 0.00
 Total \$ 0.00

General Revenue \$ 0.00
 Federal Funds \$ 0.00
 Cash Funds \$ 0.00
 Special Revenue \$ 0.00
 Other (Identify) \$ 0.00
 Total \$ 0.00

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

Current Fiscal Year

Next Fiscal Year

\$ 0

\$ 0

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

Current Fiscal Year

Next Fiscal Year

\$ 0

\$ 0

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

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

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