

Title 6. Education

Chapter I. Division of Elementary and Secondary Education

Subchapter A. Generally

Part 1. Rules Governing Education Service Cooperatives

Subpart 1. Generally

6 CAR § 1-101. Title.

This part shall be known as the Department of Education's "Rules Governing Education Service Cooperatives".

6 CAR § 1-102. Definitions.

As used in this part:

(1) "Capital outlay expenditures" means land, land improvements, buildings, infrastructure, and equipment having a:

(A) Unit value of one thousand dollars (\$1,000) or more; and

(B) Life expectancy of more than one (1) year;

(2) "Declining balance" means the current-year expenditures exceeding current-year revenues;

(3) "Education service cooperative" means intermediate service units in the state's elementary and secondary education system established by the State Board of Education pursuant to The Education Service Cooperative Act of 1985, Arkansas Code § 6-13-1001 et seq.;

(4) "Fiscal integrity" means the education service cooperative's ability to comply completely, accurately, and timely with financial management, accounting, auditing, and reporting procedures required by state or federal law, rules, and regulations; and

(5) "Material" means that the act, omission, or violation jeopardizes the fiscal integrity of the education service cooperative.

6 CAR § 1-103. Board of directors.

(a) Each education service cooperative shall be governed by a board of directors consisting of one (1) representative appointed by each school district board of directors within the boundary of the education service cooperative.

(b) No school district may have official representation on more than one (1) education service cooperative board of directors.

(c) The board of directors of each established education service cooperative shall:

(1) Function as a public corporate body;

(2) Meet, except as otherwise provided in Arkansas Code § 6-13-1007 [repealed] and 6 CAR § 1-108, at least eight (8) times each year; and

(3) Exercise general fiduciary responsibilities for the education service cooperative with regard to policies and practices that:

(A) Guard the integrity of the agency; and

(B) Maintain public trust in its operation.

(d) Such responsibilities, consistent with funds available, shall include but not be limited to:

(1) Employment of a director of the education service cooperative who shall serve as the nonvoting executive officer of the board of directors;

(2) Establishment of policies and procedures for the operation and management of the education service cooperative that shall be in written form and shall be filed with the State Board of Education;

(3) Preparation of an annual budget estimating income and expenditures for programs and services in accordance with procedures established by the state board;

(4) Receipt and expenditure of funds needed to provide programs and services in the area;

(5) Making such surveys or other inquiries that may be required to determine the service needs of school districts in the education service cooperative and developing plans to provide such needed services;

(6) Employment, upon the recommendations of the director of the education service cooperative, of such personnel as may be required to provide the services requested by the school districts in the area;

(7) Implementation of policies established by the state board for the operation of education service cooperatives;

(8) Cooperation with other education service cooperatives, school districts, and other agencies to provide programs and services for children and adults residing within their respective areas;

(9) For facilities and buildings as may be required to provide authorized programs and services:

(A) Renting, leasing, purchasing, constructing, or receiving by gift;

(B) Borrowing from the revolving loan fund under Arkansas Code § 6-20-818; or

(C) Borrowing from other sources for limited or unusual circumstances upon approval of the:

(i) Commissioner of Elementary and Secondary Education; and

(ii) Secretary of the Department of Finance and Administration; and

(10) Carrying out such other duties as may be required for the efficient operation of the education service cooperative for which the board of directors is responsible.

6 CAR § 1-104. Multicounty education service cooperatives — Establishment.

(a)(1) The State Board of Education is authorized to establish a statewide system of not more than fifteen (15) multicounty education service cooperatives of school districts.

(2) Such education service cooperatives:

(A) Shall be intermediate service units in the state's elementary and secondary education system; and

(B) As such, shall be eligible to receive and expend funds from:

(i) State and federal governments;

(ii) School districts; and

(iii) Other public or private sources.

(b) Education service cooperatives established by The Education Service Cooperative Act of 1985, Arkansas Code § 6-13-1001 et seq., will provide to school districts that choose to use them assistance in:

(1) Meeting or exceeding accreditation standards and equalizing educational opportunities;

(2) Using educational resources more effectively through cooperation among school districts; and

(3) Promoting coordination between school districts and the Department of Education in order to provide services that are consistent with the:

(A) Needs identified by school districts; and

(B) Educational priorities of the state as established by the General Assembly or the state board.

6 CAR § 1-105. Boundaries and adjustments.

(a) The State Board of Education shall establish tentative boundaries for the system of education service cooperatives authorized by The Education Service Cooperative Act of 1985, Arkansas Code § 6-13-1001 et seq.

(b) These education service cooperatives shall be established so that:

(1) They include at least three (3) but no more than nine (9) counties;

(2) They include at least ten (10) but no more than thirty-five (35) school districts;

(3) They include at least twenty thousand (20,000) pupils in kindergarten through grade twelve (K-12) average daily membership;

(4) They include at least one (1) postsecondary education institution; and

(5) There is no more than fifty (50) miles' distance or approximately one (1) hour's driving time to the area's main offices for ninety percent (90%) of the school districts.

(c)(1) The state board may make adjustments in the boundaries when criteria such as minimum average daily membership and maximum driving distances conflict.

(2) However, no more than four (4) of the areas formed may contain fewer than twenty thousand (20,000) students.

(3) In no case shall any education service cooperative be established with fewer than twelve thousand (12,000) pupils.

6 CAR § 1-106. Requests for establishment.

(a) Education service cooperatives shall be established when seventy-five percent (75%) of the school districts in a proposed education service cooperative area request such action by formal resolutions filed by the school district boards of directors with the Commissioner of Elementary and Secondary Education.

(b) Each resolution shall, in addition to requesting establishment of an education service cooperative, indicate by name or position that school district's representative on the board of directors of the proposed education service cooperative.

(c) Requests must be filed by seventy-five percent (75%) of the school district boards of directors by May 1 if an education service cooperative is to be established for the following school year.

6 CAR § 1-107. Alteration of boundaries.

(a) The State Board of Education, upon the request of one (1) or more school district boards of directors and consistent with the provisions of Arkansas Code § 6-13-1003, may alter the boundaries of a proposed or operational education service cooperative when it determines such alteration to be in the best interest of the school districts in the education service cooperatives involved.

(b) Consistent with Arkansas Code § 6-13-1003, a member of an education service cooperative formed after January 1, 1984, under The Public School Educational Cooperative Act of 1981, Arkansas Code § 6-13-901 et seq. [repealed], may not be moved to another education service cooperative without that member's consent.

6 CAR § 1-108. Executive committee.

(a) In a meeting, with a majority of its members present and voting, the board of directors of an education service cooperative may elect from its membership an executive committee of seven (7), nine (9), or eleven (11) members.

(b) Candidates for the executive committee, if one is formed, shall be chosen so that the school districts within the education service cooperative are equitably represented.

(c) All subsequent members of the executive committee shall be elected by a majority vote of the board of directors in attendance at the annual meeting.

(d) The function of the executive committee shall be to carry out those duties delegated to it by the governing board of directors, the provisions of Arkansas Code § 6-13-1006 and this section notwithstanding.

(e)(1) Terms of executive committee members shall be three (3) years except for the initial members who shall have terms assigned by lot so as to stagger terms to equalize as nearly as possible the number of members to be elected each year.

(2) Vacancies occurring after the annual meeting shall be filled by the executive committee until the next annual meeting.

(f)(1) Should an executive committee be established in any education service cooperative, it shall meet at least nine (9) times per year, and the requirements for board of directors meetings shall be reduced to three (3) times annually.

(2) The president of the board of directors shall serve as chair of the executive committee.

(3) No person, however, may serve in this position for more than two (2) consecutive years.

6 CAR § 1-109. Teacher center and teacher center committee.

(a) Each education service cooperative shall establish a teacher center that will provide, consistent with funds available, curriculum development assistance, educational materials, and staff development services to teachers within the school districts in the service area.

(b) A teacher center committee, composed of at least one (1) representative from the staff of each school district, shall advise the director and the governing body on the staffing, programs, and operation of the teacher center.

(c) The governing body of each cooperative shall determine the initial composition of the teacher center committee to:

(1) Achieve a balance of elementary, middle school or junior high, and high school personnel; and

(2) Ensure that at least one-half (1/2) but not more than two-thirds (2/3) of the members are classroom teachers.

(d) All positions on the teacher center committee shall be assigned to school districts by lot.

(e) Each teacher must be elected by colleagues in his or her school district and each administrator or support person shall be appointed by the superintendent.

(f) Initial terms shall be determined by lot for equal or nearly equal periods of one (1), two (2), and three (3) years.

(g) Thereafter, terms shall be for three (3) years.

(h) The teacher center committee shall meet at least three (3) times per year.

(i) In the last meeting each year, positions represented by expiring terms shall be reassigned by lot.

6 CAR § 1-110. Other necessary committees.

Each education service cooperative may establish other committees of local school personnel needed to keep its programs responsive to the schools it serves.

6 CAR § 1-111. Director.

(a) Each education service cooperative shall be administered by a director who shall perform the following duties:

- (1) Administer the programs and services of the education service cooperative;
- (2) Recommend the employment of professional and nonprofessional personnel authorized by the education service cooperative's governing body;

(3) Prepare the budget for adoption by the education service cooperative's governing body;

(4) Direct expenditures of funds within the budget; and

(5) Perform other duties as required by the education service cooperative's governing body and the policies and rules of the State Board of Education.

(b)(1) The director of each education service cooperative shall:

(A) Hold an administrator's license and meet all requirements to serve as a superintendent of schools in the State of Arkansas; or

(B) Have an equivalent level of education and administrative experience and obtain the approval of the state board.

(2) The governing body of any education service cooperative may enter into a contract with a director for a period not to exceed three (3) years.

6 CAR § 1-112. Personnel.

(a) Personnel of education service cooperatives shall be employed in accordance with laws, rules, regulations, and procedures applicable to the school districts of this state.

(b) In lieu of a salary schedule, an education service cooperative annually may submit to the Department of Education a complete listing of:

(1) All employees of the education service cooperative; and

(2) Each employee's:

(A) Position;

(B) Salary; and

(C) Benefits.

(c) Licensure requirements shall be the same as those expected of persons holding similar positions in local school districts.

(d) Termination or contract nonrenewal of education service cooperative personnel shall be as provided by law for the school district personnel.

6 CAR § 1-113. Personnel from the Department of Education.

With the approval of an education service cooperative's governing body, the assistant commissioners in the Department of Education may assign state educational agency personnel to that education service cooperative.

6 CAR § 1-114. General policies, rules, and regulations.

(a) The board of directors of each education service cooperative has the obligation to oversee administrative and program expenditures of the education service cooperative.

(b) The board of directors of each education service cooperative shall operate the education service cooperative in accordance with all applicable state and federal laws, rules, and regulations.

(c)(1) Each education service cooperative shall adopt and file for approval by the Commissioner of Elementary and Secondary Education guidelines:

(A) For settling possible disputes between member school districts; and

(B) In equity or jurisdictional matters relating to shared assets and services.

(2) The guidelines shall contain at a minimum the:

(A) Right of any school district within the boundaries of the education service cooperative to file a complaint regarding any:

(i) Issue related to the programs and services of the cooperative; or

(ii) Obligation of the cooperative under law or this part;

(B) Right of any school district in contract with the education service cooperative under 6 CAR § 1-119(d) to file a complaint regarding any issue related to programs and services of the cooperative for which the school district has contracted;

(C)(i) Procedure by which a complaint may be filed.

(ii) This procedure may impose a time limitation on the filing of complaints of no less than thirty (30) days after the act or omission complained of;

(D) Authority of the director of the education service cooperative to investigate the complaint and issue an initial written decision within no more than sixty (60) days of receipt of the complaint;

(E) Right of the complaining party or any affected school district to appeal the initial decision to the board of directors or executive committee of the education service cooperative, as chosen by the cooperative in its guidelines; and

(F) Responsibility of the board of directors or executive committee to:

(i) Grant a hearing on no less than thirty (30) days' notice; and

(ii) Issue a final written decision within no more than sixty (60) days of receipt of the appeal.

6 CAR § 1-115. Liaison for sharing and coordination of activities.

(a) The Department of Education shall encourage sharing and coordination of activities among the education service cooperatives.

(b) The Commissioner of Elementary and Secondary Education shall name a person to serve as liaison between the department and the education service cooperatives.

(c) This liaison shall:

(1) Provide information on resources and programs; and

(2) Be the general contact person in the department for the education service cooperatives.

6 CAR § 1-116. Liaison with postsecondary institutions.

(a) Each education service cooperative, in carrying out its programs and services, shall cooperate with the various state-supported postsecondary educational institutions located within its area.

(b) Each such postsecondary institution, within the availability of funds and personnel, shall establish liaison with the education service cooperatives in its service area and assist them in all practical ways.

6 CAR § 1-117. Annual surveys and needs assessments.

(a) Each education service cooperative shall conduct annual surveys and needs assessments to assist the education service cooperative in its first priority of helping school districts improve their educational programs and practices.

(b) Such activities may include written surveys, visits to schools to meet with local personnel, and other means to identify local needs throughout the service area.

(c) Each education service cooperative shall work with the Department of Education to conduct statewide surveys that complement, rather than duplicate, the work of the department.

(d) The objective shall be to obtain statewide, area, and local data with as little duplication as possible.

6 CAR § 1-118. Programs and services.

(a) The programs and services of each education service cooperative shall be based upon the:

- (1) Needs of the school districts included in its service area; and
- (2) Educational priorities of the state.

(b) Each education service cooperative shall provide a teacher center as its basic curriculum and staff development capability.

(c) Education service cooperatives may provide shared educational programs and services such as:

- (1) Needs assessment and school improvement planning;
- (2) Staff development;
- (3) Curriculum development;
- (4) Itinerant teachers;
- (5) Instructional materials;
- (6) Adult and vocational education;
- (7) Programs for gifted and talented;
- (8) Education for children with disabilities;
- (9) Alternative educational programs;
- (10) Secondary area vocational centers;
- (11) Community-based education programs; and
- (12) Other services that:

(A) The State Board of Education may approve; or

(B) School districts may support with local funds.

6 CAR § 1-119. Participation of local school districts.

(a) Each school district within the service area of the education service cooperative shall be entitled to participate in those programs and services that are fully supported by state funds.

(b) No school district shall be required to participate in any service.

(c) School districts may enter into contracts with the education service cooperative for services supported partially or completely by local school funds.

(d) School districts within one (1) education service cooperative may also contract for services with another education service cooperative.

6 CAR § 1-120. Funding of education service cooperatives.

(a) The state shall provide funds to support the basic structure of the education service cooperatives established under the provisions of The Education Service Cooperative Act of 1985, Arkansas Code § 6-13-1001 et seq., and this part.

(b) This structure shall include:

(1) Salaries and fringe benefits for:

(A) A director;

(B) A teacher center coordinator; and

(C) Support staff;

(2) Costs such as:

(A) Travel;

(B) Utilities;

(C) Rent;

(D) Equipment; and

(E) Supplies;

(3) Funds to support staff and curriculum development activities; and

(4) Funds in an annual amount not to exceed twenty-five thousand dollars (\$25,000) for the travel expenses of itinerant personnel employed by the education service cooperative to serve the part-time needs of local school districts.

(c) School districts may contract with their education service cooperative for services and part-time personnel to be supported in whole or in part by local funds, but no school district shall be assessed a membership fee.

(d) Categorical state or federal funds may also be assigned to any education service cooperative:

(1) Upon approval of its governing body; and

(2) Under conditions set by the State Board of Education.

(e) As a public agency, each education service cooperative shall be eligible to receive and expend public and private funds.

6 CAR § 1-121. Policies, procedures, expenditures, reports, and audits.

(a) On or before August 31 of each year, each education service cooperative shall file with the State Board of Education for the state board's approval:

(1) The policies and procedures of the education service cooperative, including without limitation the board of directors' policies and procedures for overseeing the administrative and program expenditures of the education service cooperative; and

(2)(A) A record of the education service cooperative's employment policies and practices for the year that includes without limitation:

(i) The race and sex of each person the education service cooperative employed or terminated during the year;

(ii) The race and sex of every person who sought employment with the education service cooperative during the year;

(iii) The name of each person employed by the education service cooperative during the year who is related by blood or marriage to another employee or board member of the education service cooperative; and

(iv) A report of its receipts and expenditures made in accordance with uniform accounting procedures adopted by the Commissioner of Elementary and Secondary Education.

(B) The report shall contain without limitation:

(i) An itemization of administrative and program expenditures; and

(ii) The result of the board of directors' review of the expenditures made under its oversight function.

(b) The Department of Education may prescribe the forms and procedures for filing the information required by subsection (a) of this section.

(c) Each education service cooperative is subject to an annual audit by the Legislative Joint Auditing Committee.

(d)(1) In an annual meeting of the board of directors that must convene between May 15 and July 15, each education service cooperative shall report to its constituent school districts on the year's operations.

(2) The report also shall include information on fiscal distress under Arkansas Code § 6-13-1027 and 6 CAR § 1-127.

(3) The education service cooperative shall supplement its report with written reports to each school district and to the department on a school-by-school, service-by-service accounting basis.

(e) Following the end of each fiscal year, any balances in particular service accounts must be apportioned and returned to the schools involved or credited to their accounts for the following year.

6 CAR § 1-122. Evaluations and performance rating.

(a)(1) Each education service cooperative shall be evaluated during the 2012-2013 school year, and at least once within each five-year period, on a schedule established by the Commissioner of Elementary and Secondary Education.

(2) All active education service cooperatives must be visited by an evaluation committee of not more than nine (9) persons.

(b)(1) Each evaluation shall include but not be limited to an investigation of:

- (A) User satisfaction;
- (B) Service adequacy;
- (C) Extent of local financial support;
- (D) Staff qualifications; and
- (E) Performance and administration effectiveness.

(2)(A) At least fifteen (15) calendar days prior to the onsite evaluation conducted by the evaluation committee, the education service cooperative to be evaluated shall complete a self-study and submit the self-study to the commissioner or his or her designee.

(B) The self-study should include an analysis of each of the evaluation categories listed in subsection (e) of this section.

(C) A self-study guide is attached as Appendix 1 to this part.

(3) During the onsite evaluation, the evaluation committee shall review available evidence to verify the conclusions of the self-study.

(c) The final evaluation, including any self-evaluation, shall be:

(1) Included in the annual report to the Department of Education required by Arkansas Code § 6-13-1020 and 6 CAR § 1-121; and

(2) Made available on the website of the education service cooperative.

(d) The evaluation criteria herein have been developed collaboratively between the department and the director of each education service cooperative.

(e)(1) The evaluation criteria is outlined in the rubric for evaluation attached as Appendix 2 to this part.

(2) Each education service cooperative shall receive an overall evaluation rating from one (1) to five (5).

(3) The overall evaluation rating will consist of an average of the individual category ratings as outlined in the rubric for evaluation attached as Appendix 2 to this part.

(f)(1) The report of the evaluation committee shall be filed with:

- (A) The education service cooperative visited;
- (B) Its constituent school districts; and

(C) The State Board of Education.

(2) The state board shall acknowledge receipt of the report and comment on any deficiencies identified in the report that should be corrected for the education service cooperative to remain eligible for base funding.

(3) The report shall identify each education service cooperative as being in one (1) of the following category levels, based on the evaluation:

(A) "Level 5", education service cooperative of excellence;

(B) "Level 4", education service cooperative exceeding standards;

(C) "Level 3", education service cooperative meeting standards;

(D) "Level 2", education service cooperative on alert; or

(E) "Level 1", education service cooperative in need of immediate improvement.

(4) As set forth in Arkansas Code §§ 6-13-1021 – 6-13-1022, this section, and 6 CAR § 1-123, the evaluation committee may recommend to the state board that an education service cooperative be dissolved.

(g) The intent of this evaluation procedure is to:

(1) Provide a means for school districts to express their concerns about the operation of their education service cooperative; and

(2) Ensure that each education service cooperative remains alert and responsive to the needs of the local schools it serves.

(h) An education service cooperative that receives a performance category level of level 1 shall be reevaluated during the evaluation cycle the following year.

(i) For all education service cooperatives that receive a performance category level of level 1 for two (2) consecutive years, the department shall:

(1) Withhold base funding to the education service cooperative; or

(2) Take over administration of the education service cooperative.

(j)(1) For each evaluation, the commissioner shall appoint the evaluation committee and designate its chair.

(2) The evaluation committee shall include the following from outside the boundary of the education service cooperative being evaluated:

- (A) A department staff member;
- (B) A teacher;
- (C) An administrator;
- (D) A college staff member; and
- (E) A present or former staff member of an area education service

agency.

(3) In addition, the evaluation committee shall include from within the education service cooperative's area a:

- (A) Member of a school district board of directors;
- (B) Representative of business and industry; and
- (C) School parent from each of two (2) school districts.

(k) Each education service cooperative shall pay the reasonable costs of its evaluation.

6 CAR § 1-123. Dissolution of an education service cooperative.

(a) The State Board of Education shall be authorized to dissolve any education service cooperative upon the request of a majority of its school district boards of directors or upon the recommendation of the evaluation committee provided for in:

- (1) Arkansas Code §§ 6-13-1021 – 6-13-1022;
- (2) 6 CAR § 1-122; and
- (3) This section.

(b) A dissolved education service cooperative's area shall be assigned to one (1) or more adjacent education service cooperatives, the provisions of Arkansas Code § 6-13-1003 and 6 CAR § 1-105 notwithstanding, with the dissolved education service cooperative's base funding apportioned to all remaining education service cooperatives in the state.

(c) After payment of debts, the assets of a dissolved education service cooperative shall be distributed to the school districts in its service area based on each school district's three-quarter average daily membership for the immediately preceding school year.

(d)(1) Any active grant funds held by the dissolved education service cooperative shall be distributed to the Commissioner of Elementary and Secondary Education in accordance with:

(A) The grant requirements;

(B) State and federal law; and

(C) The best interests of the school districts within the boundaries of the dissolved cooperative.

(2) To the extent allowed by the grant requirement or by law, active grant funds may be transferred to one (1) or more public school districts or education service cooperatives or to the Department of Education for future administration of the grant funds.

6 CAR § 1-124. Technology centers.

(a) Consistent with funds available and upon a majority vote of the members present and voting, the board of directors of each education service cooperative established under The Education Service Cooperative Act of 1985, Arkansas Code § 6-13-1001 et seq., is authorized to:

(1) Establish a technology training center; and

(2) Employ a technology coordinator who has demonstrated expertise in computer technology and staff development.

(b) The duties of the technology coordinator at such technology training center shall include but not be limited to the following:

(1) To provide staff development for personnel of member schools;

(2) To assist member schools with determining technology needs and types of computer hardware and software necessary to meet those needs;

(3) To assist with technology system analysis and local network design;

(4) To provide member schools with information on technology standards and specifications;

(5) To develop and coordinate a technology training center located at the education service cooperative;

(6) To coordinate information with the Arkansas Public School Computer Network, the Instructional Microcomputer Project for Arkansas Classrooms, and the Governor's Technology Task Force so that member schools will be informed on technological activity in the state; and

(7) To assist with requests for proposal development and bid analysis so that member schools will be better able to spend funds for technology.

6 CAR § 1-125. Mathematics and science center.

(a) Consistent with funds available and upon a majority vote of the members present and voting, the board of directors of each education service cooperative established under this part is authorized to:

(1) Establish a mathematics and science center; and

(2) Employ a mathematics and science coordinator who has demonstrated expertise in:

(A) Mathematics and science content;

(B) Pedagogy; and

(C) Staff development.

(b) The duties of the mathematics and science coordinator at the mathematics and science resource center shall include but not be limited to the following:

(1) Providing mathematics and science staff development for and individual technical assistance to personnel of member schools;

(2) Assisting member schools with:

(A) Determining mathematics and science curricula;

(B) Instruction; and

(C) Assessment of needs and resources necessary to meet those needs;

(3) Enhancing curricula and instruction using technology;

(4) Providing member schools with information for curriculum alignment with mathematics and science standards and state frameworks;

(5) Developing and coordinating a mathematics and science resource center located at the education service cooperative; and

(6) Assisting with the development of requests for proposals for teacher enhancement in mathematics and science.

6 CAR § 1-126. Cooperatives as local education agencies.

(a) Education service cooperatives created by The Education Service Cooperative Act of 1985, Arkansas Code § 6-13-1001 et seq., meet the definition of “local education agencies” by virtue of the fact that each is a public authority, legally constituted within this state to:

(1) Perform a service function for a public elementary and secondary school in school districts and other political subdivisions of the state; and

(2) Form a consortium of school districts that are recognized by the General Assembly as administrative agents for public elementary and secondary schools.

(b) This section intends to:

(1) Recognize the function of the cooperatives; and

(2) Provide eligibility to cooperatives to receive state and federal funds upon written requests from the school districts.

6 CAR § 1-127. Fiscal distress — Education service cooperatives.

(a) Any education service cooperative that meets one (1) or more of the following criteria may be identified by the Department of Education as being in fiscal distress upon final approval of the State Board of Education:

(1)(A) A declining balance that jeopardizes the fiscal integrity of the education service cooperative.

(B) The department shall not use capital outlay expenditures from the education service cooperative’s balance for facilities to identify the education service cooperative as being in fiscal distress;

(2) A material failure to meet the education service cooperative’s obligation to maintain the education service cooperative’s facilities;

(3) A material violation of local, state, or federal law, rule, or regulations relating to:

- (A) Fire, health, or safety codes;
 - (B) Construction codes;
 - (C) Audit requirements; or
 - (D) Procurement, bidding, and purchasing requirements;
- (4) A material failure to provide timely and accurate legally required financial reports to:
- (A) The department;
 - (B) Arkansas Legislative Audit;
 - (C) The General Assembly; or
 - (D) The Internal Revenue Service;
- (5) A material failure to maintain sufficient funds to cover:
- (A) Payroll;
 - (B) Salary;
 - (C) Employment benefits; or
 - (D) Legal tax obligations;
- (6) A material default on any debt obligation;
- (7) A material discrepancy between budgeted and actual expenditures; or
- (8) Any other fiscal condition of the education service cooperative that the department determines materially impacts the education service cooperative's delivery of education services.

(b) The department may identify an education service cooperative as being in fiscal distress at any time a fiscal condition of the education service cooperative is discovered to have a detrimental negative impact on the continuation of educational services provided by the education service cooperative.

(c) If the department identifies an education service cooperative as being in fiscal distress, the department shall notify the education service cooperative in writing of the identification of fiscal distress within ten (10) calendar days.

(d) The department shall identify in the notice each criteria for fiscal distress on which the department based the identification of fiscal distress.

(e) The department shall deliver the notice by certified mail, return receipt requested, and addressed to the:

- (1) President of the education service cooperative's board of directors; and
- (2) Director of the education service cooperative employed under Arkansas Code § 6-13-1010 and 6 CAR § 1-111.

(f) The identification of fiscal distress made by the department under Arkansas Code § 6-13-1027 and this section may be appealed to the state board under Arkansas Code § 6-13-1031 and 6 CAR § 1-131 in which case the final order entered upon appeal is the final classification of fiscal distress.

(g) Within two (2) weeks following the date the education service cooperative receives the final classification by the state board of fiscal distress, the education service cooperative shall:

- (1) Notify in writing each public school district in its service area that the education service cooperative is classified as being in fiscal distress; and
- (2) File with the department a fiscal distress plan under Arkansas Code § 6-13-1028 and 6 CAR § 1-128.

(h) An education service cooperative that is identified as being in fiscal distress shall not incur any debt without the prior written approval of the department.

(i) The education service cooperative shall include in the annual report to constituent school districts under Arkansas Code § 6-13-1020(d) and 6 CAR § 1-121 the progress the education service cooperative had made on its fiscal distress plan.

6 CAR § 1-128. Fiscal distress plan.

(a) An education service cooperative that is classified by the State Board of Education as being in fiscal distress shall file with the Department of Education a fiscal distress plan that:

- (1) Addresses each area of fiscal distress identified by the department;
- (2) Describes how the education service cooperative will remedy the areas experiencing fiscal distress; and

(3)(A) Establishes the schedule by which the education service cooperative will implement the fiscal distress plan.

(B) The fiscal distress plan implementation schedule shall not exceed two (2) years from the date of the final classification of fiscal distress.

(b) The department shall approve the fiscal distress plan before the education service cooperative implements the fiscal distress plan.

(c) An education service cooperative identified as being in fiscal distress is required to receive onsite technical evaluation and assistance from the department.

6 CAR § 1-129. Fiscal distress actions.

(a) To address the identified areas of fiscal distress of an education service cooperative, the Department of Education shall:

(1)(A) Conduct an onsite evaluation and make recommendations regarding the staffing and fiscal practices of the education service cooperative.

(B) The recommendations of the department are binding on the education service cooperative;

(2) Every six (6) months during which the education service cooperative is classified as being in fiscal distress, submit to the State Board of Education a written evaluation on the fiscal status of the education service cooperative;

(3) Monitor the fiscal operations and accounts of the education service cooperative; and

(4) Require the education service cooperative administrative staff and employees to obtain instruction or training in areas of fiscal concern for the education service cooperative.

(b) The department also may take one (1) or more of the following actions:

(1) Reorganize the administrative unit of the education service cooperative by:

(A)(i) Removing and replacing the director of the education service cooperative employed under Arkansas Code § 6-13-1010 and 6 CAR § 1-111.

(ii) An individual appointed to replace the director shall administratively operate the education service cooperative under the supervision and approval of the Commissioner of Elementary and Secondary Education.

(iii) The department may compensate nondepartment agents operating the education service cooperative from the education service cooperative's funding;

(B) Removing, replacing, or reassigning other administrative staff of the education service cooperative; or

(2) Impose reporting requirements on the education service cooperative.

(c) Within two (2) consecutive school years of the state board's final classification of fiscal distress, the department shall determine whether to recommend that the education service cooperative be removed from fiscal distress status.

6 CAR § 1-130. Removal from fiscal distress.

(a) The Department of Education shall certify in writing to the education service cooperative that the education service cooperative may be removed from fiscal distress status when the department determines that the education service cooperative has:

(1) Corrected all of the criteria under Arkansas Code § 6-13-1027 and 6 CAR § 1-127 that led to the classification of fiscal distress; and

(2) Complied with all department recommendations and requirements for removal from fiscal distress status.

(b)(1) Within thirty (30) days of receiving the department's certification under Arkansas Code § 6-13-1030(a) and subsection (a) of this section, an education service cooperative may petition the State Board of Education in writing for removal from fiscal distress.

(2) An education service cooperative may not petition the state board for removal from fiscal distress status before the department makes the certification under Arkansas Code § 6-13-1030(a) and subsection (a) of this section.

(c) Within sixty (60) days of receiving the petition for removal from fiscal distress, the state board shall deny the petition or remove the education service cooperative from fiscal distress status.

(d)(1) If an education service cooperative fails to meet the department's requirements for removal from fiscal distress status within two (2) consecutive school years of being classified in fiscal distress, the state board shall:

(A) Reorganize the administrative unit of the education service cooperative under Arkansas Code § 6-13-1029 and 6 CAR § 1-129; or

(B) Issue a written finding supported by a majority vote of the state board explaining in detail that the education service cooperative could not comply with Arkansas Code § 6-13-1030 or this section due to impossibility caused by external forces beyond the education service cooperative's control.

(2) The state board shall extend the classification of fiscal distress for one (1) additional year within which time the education service cooperative shall comply with all conditions for removal from fiscal distress status.

(e) Within fifteen (15) days of making a decision under Arkansas Code § 6-13-1030 and this section, the state board shall:

(1) Notify the education service cooperative of its decision; and

(2) Include with the notice a copy of a written finding issued under Arkansas Code § 6-13-1030 and subdivision (d)(1)(B) of this section.

6 CAR § 1-131. Appeal of fiscal distress identification and classification.

(a) An education service cooperative may appeal to the State Board of Education the identification of fiscal distress under Arkansas Code § 6-13-1027 and 6 CAR § 1-127.

(b) The education service cooperative may lodge an appeal by filing a written appeal with the Commissioner of Elementary and Secondary Education by certified mail, return receipt requested, within thirty (30) days of the date the education service cooperative received notice of the identification of fiscal distress.

(c) The written appeal shall state in clear terms the reason why the education service cooperative should not be classified as being in fiscal distress.

(d) The state board shall hear the appeal within sixty (60) days of receipt of the written notice of appeal.

(e) Notwithstanding any appeal rights in this section, no appeal shall stay the state board's or the Department of Education's authority to take action to enforce the education service cooperative's compliance with financial management, accounting, auditing, and reporting procedures required by state or federal law, rules, and regulations.

(f)(1) The decision of the state board on the appeal is a final order.

(2) There is no further right of appeal except to Pulaski County Circuit Court pursuant to the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

Appendix A. Self-Study Guide

Link:

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/14/6CARpt.1Appendix1.pdf>

Appendix B. Evaluation Rubric

Link:

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/15/6CARpt.1Appendix2.pdf>