Division of Elementary and Secondary Education

Transforming Arkansas to lead the nation in student-focused education

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March 11, 2022

Ms. Rebecca Miller-Rice
Rules Administrator
Bureau of Legislative Research
One Capitol Mall, Fifth Floor
Little Rock, AR 72201

Re: Division of Elementary and Secondary Education Rules Governing Public Charter Schools

Dear Ms. Miller-Rice:

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 April 2022 ALC Administrative Rules Subcommittee agenda.

On December 29, 2021, the State Board of Education approved the release of these rules for public comment pending the approval of the Governor's Office. On January 13, 2022, the Governor's Office approved them for public comment release. On March 10, 2022, the State Board of Education gave its final approval of the rules.

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.

Respectfully submitted,

/s/ Whitney James
Staff Attorney
Arkansas Department of Education

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 DESE Rules Governing Public Charter Schools

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 **Does this proposed, amended, or repealed rule have a financial impact?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		General Revenue	
Federal Funds		Federal Funds	
Cash Funds		Cash Funds	
Special Revenue		Special Revenue	
Other (Identify)		Other (Identify)	
Total	$ 0.00	Total	$ 0.00

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

Current Fiscal Year		Next Fiscal Year	
General Revenue		General Revenue	
Federal Funds		Federal Funds	
Cash Funds		Cash Funds	
Special Revenue		Special Revenue	
Other (Identify)		Other (Identify)	
Total	$ 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.

SUMMARY OF AMENDMENTS

DIVISION OF ELEMENTARY AND SECONDARY EDUCATION RULES GOVERNING PUBLIC CHARTER SCHOOLS

These rules were created per Ark. Code Ann. § 6-23-101, et. seq. Other than the language adding multi-year services contracts as an exception to the definition of debt, and the one-week extension added to paragraph 4.02.3.3, the amendments to the rules are either technical or a result of legislation, namely Acts 744 and 774 of 2021.

Act 744 of 2021 created the "Community Schools Act," which is codified at Ark. Code Ann. § 6-15-3001, et. seq. Per Ark. Code Ann. § 6-23-109, the Charter Authorizing Panel may designate public charter schools as community schools, as defined by Ark. Code Ann. § 6-15-3001, if the schools meet certain application requirements. Language regarding this was added to the rules.

The amendments add language regarding transfer of funds and clarify that when a an open-enrollment charter is revoked, transferred or assigned, the charter school shall provide the Division of Elementary and Secondary Education with a comprehensive list of all banking information and accounts in which the school holds state or federal funds. Additional language was added per the Act stating that the charter must receive approval from the division for expenditures over $500 and that the charter must work in coordination with the division to draft a charter closure plan.

Language was added regarding open-enrollment public charter school policy regarding enrollment of students after the statutory deadline.

The language regarding multi-year services contracts was added because these contracts do not represent significant risks to the financial stability of the school(s). The existing rules state that after receipt of a request to change the physical location of a public charter school, the Commissioner is given a period of seven (7) days to request additional information. The rule has been amended to change that time period to fourteen (14) days in order to allow the Commissioner additional time to review and respond to the request.

There were also some technical changes made to the rules.

ARKANSAS DIVISION OF ELEMENTARY AND SECONDARY EDUCATION
RULES GOVERNING PUBLIC CHARTER SCHOOLS

Proposed Effective Date: ~~March 3, 2020~~ April 2022

1.00 REGULATORY AUTHORITY AND PURPOSE

1.01 The State Board of Education enacted these rules pursuant to its authority as set forth in Ark. Code Ann. §§ 6-11-105, 6-23-101 et seq., 25-15-201 et seq.

2.00 LEGISLATIVE AND REGULATORY INTENT

2.01 It is the intent of the Arkansas General Assembly, and of these rules, to provide opportunities for teachers, parents, pupils, and community members to establish and maintain public schools that operate independently from the existing structure of local school districts as a method to accomplish the following:

2.01.1 Improve student learning;

2.01.2 Increase learning opportunities for all students, with special emphasis on expanding learning experiences for students who are identified as low-achieving;

2.01.3 Encourage the use of different and innovative teaching methods;

2.01.4 Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site;

2.01.5 Provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system; and

2.01.6 Hold the schools established under this chapter accountable for meeting measurable student achievement standards.

3.00 DEFINITIONS

3.01 "Academic Eligibility" means qualified for selection or admission based upon academic performance.

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3.02 "Adult education charter school" means a charter school for individuals at least nineteen (19) years of age that offers a high school diploma program and an industry certification program simultaneously to students.

3.03 "Affected School District" means each public school district from which an open-enrollment public charter school or adult education public charter school is expected to draw students for the purposes of enrollment; the public school district in which the open-enrollment public charter school or adult education public charter school will be located; and each public school district that is contiguous to the public school district in which the open-enrollment or adult education public charter school will be located.

3.04 "Athletic Eligibility" means qualified for selection or admission based upon athletic performance or upon athletic eligibility requirements set forth by the Arkansas Activities Association.

3.05 "Application" means the proposal by a public-school district or eligible entity for obtaining conversion public charter school status or open-enrollment public charter school status.

3.06 "Authorizer" means an entity that authorizes a charter, which may be either the:

3.06.1 Division of Elementary and Secondary Education; or

3.06.2 State Board of Education acting under Ark. Code Ann. § 6-23-703 and Section 10.0 of these rules.

3.07 "Average daily membership" means the total number of days of school attended plus the total number of days absent by students in kindergarten through grade twelve (K-12) during the first three (3) quarters of each school year divided by the number of school days actually taught in the school district during that period of time rounded up to the nearest hundredth. Open-enrollment public charter school students who are enrolled in a curriculum that fulfills the requirements established by the State Board of Education under the Standards for Accreditation of Arkansas Public Schools and School Districts may be counted for average daily membership.

3.08 "Charter," or "charter contract" means a performance-based contract for an initial five-year period between the authorizer and an approved applicant for public charter school status that exempts the public charter school from state and local rules, regulations, policies, and procedures specified in the contract and from the provisions of Title 6 of the Arkansas Code specified in the contract. The initial

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charter or charter contract may be renewed as set forth in these rules. For the purposes of these rules, the initial five-year period of a charter begins to run on the July 1 following approval of the charter unless otherwise specified by the authorizer. The period for any subsequent renewal of an initial charter shall begin to run on the July 1 following approval of the renewal.

3.09 "Charter school office" means the Division of Elementary and Secondary Education's Charter School Office.

3.10 "Commissioner" means the Commissioner of Elementary and Secondary Education.

3.11 "Conversion public charter school" means a public school that has converted to operating under the terms of a charter approved by the local school board and the authorizer.

3.12 "Debt" means any financial obligation incurred by a public charter school which will not be paid in full within 365 days from the date on which the financial obligation is incurred. Debt does not include multi-year service contracts for equipment as long as the contract length does not exceed the current charter term.

3.13 "Division" means the Arkansas Department of Education's Division of Elementary and Secondary Education, unless otherwise specified.

3.14 "Eligible entity" means:

3.14.1 A public institution of higher education;

3.14.2 A private nonsectarian institution of higher education;

3.14.3 A governmental entity; or

3.14.4 An organization that:

3.14.4.1 Is nonsectarian in its program, admissions policies, employment practices, and operations, and

3.14.4.2 Has applied for tax-exempt status under § 501(c)(3) of the Internal Revenue Code of 1986. The eligible entity must obtain status as a tax-exempt organization under § 501 (c)(3)

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of the Internal Revenue Code of 1986 prior to the first day of its operation with students.

3.15 "Founding member" means any individual who is either:

3.15.1 A member or an employee of the eligible entity applying for the initial charter for an open-enrollment public charter school; or

3.15.2 A member of the initial governing non-advisory board of the open-enrollment public charter school.

3.16 "Letter of Intent" means a written notice submitted to the Charter School Office that a public school district or an eligible entity intends to file a charter school application. The letter of intent shall be submitted by the established deadline on forms provided by the Division of Elementary and Secondary Education.

3.17 "License" means the authority granted by the authorizer to an already-existing open-enrollment or adult education public charter sponsoring entity for the purpose of establishing another open-enrollment or adult education public charter school(s) provided the applicant for a charter license(s) meets the following minimum conditions: (1) maintains an existing open-enrollment or adult education public charter school charter from the authorizer; and (2) meets the requirements of Section 6.05 or Section 11.03 of these rules.

3.18 "Local school board" means a board of directors exercising the control and management of a public school district. For the purposes of these rules, "local school board" also refers to the board of directors of a school district where a public charter school will be physically located.

3.19 "Net assets" refers to the status of particular items upon the occurrence of the dissolution, nonrenewal, or revocation of the charter, with the purpose being to identify publicly-funded unencumbered assets as property of the state at that point. Specifically, "net assets" refer to any unencumbered asset for which public funds were spent.

3.20 "Open-enrollment public charter school" means a public school that:

3.20.1 Is operating under the terms of a charter granted by the authorizer on the application of an eligible entity;

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3.20.2 May draw its students from any public school district in this state; and

3.20.3 Is a local educational agency under the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 7801, as ~~it existed on April 10, 2009.~~ reauthorized on December 10, 2015.

3.20.4 "Open-enrollment public charter school" also possesses the same meaning as given the term "charter school" in the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 7221i, as ~~it existed on April 10, 2009.~~ reauthorized on December 10, 2015.

3.20 "Parent" means any parent, legal guardian, or other person having custody or charge of a school-age child.

3.21 "Public school" means a school that is part of a public school district under the control and management of a local school board.

3.22 "Public charter school" means a conversion public charter school or an open-enrollment public charter school.

3.23 "Sectarian" means of or relating to a particular religious sect. Source: Black's Law Dictionary, 8th Ed., 2004.

3.24 "Short-term Line of Credit" means any financial obligation or obligations incurred by a public charter school as the result of an agreement by a lender or potential creditor to advance funds of ten thousand dollars ($10,000.00) or more in the form of:

3.24.1 A loan (or combination of loans) that is payable in full in less than three hundred sixty-five (365) days from the date on which the financial obligation is incurred; or

3.24.2 A loan (or combination of loans) that does not define a date certain at which the loan is payable in full.

4.00 RULES APPLICABLE TO ALL PUBLIC CHARTER SCHOOLS

4.01 Charter Form for Public Charter Schools – Requirements – Revision

4.01.1 A charter for a public charter school shall:

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4.01.1.1 Be in the form of a written contract signed by the Commissioner and the chief operating officer of the public charter school;

4.01.1.2 Satisfy the requirements of Title 6, Chapter 23 of the Arkansas Code and of these rules; and

4.01.1.3 Ensure that the information required under Ark. Code Ann. § 6-23-404 is consistent with the information provided in the application and any modification that the authorizer may require.

4.01.2 Any revision or amendment of the charter for a public charter school may be made only with the approval of the authorizer.

4.01.3 An open-enrollment charter school shall post the most recent version of its written contract on the website of the open-enrollment public charter school by August 1 of each year.

4.02 Authorizer Hearing Notice Requirements

4.02.1 For applications for a public charter school, the public charter school applicant shall submit its application according to a schedule set forth by the State Board of Education.

4.02.2 For renewal requests for a public charter school, the public charter school applicant shall submit its renewal request according to a schedule set forth by the State Board of Education.

4.02.3 For requests seeking authorizer approval for a change in the physical location of a public charter school, the public charter school applicant shall submit such request not later than thirty-five (35) days prior to the date of the authorizer meeting at which the request will be heard. For open-enrollment or adult education public charter schools, each such request shall be contemporaneously sent by the applicant to the superintendent of the local school district in which the public charter school is located.

4.02.3.1 For the purposes of these rules, a change in the physical location of a public charter school means a relocation of a public charter school from its present location.

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4.02.3.2 Requests for a change in the physical location of a public charter school shall include maps of the present and proposed future locations of the charter school, and shall identify the local public school district in which the proposed future location will be located.

4.02.3.3 Not later than ~~seven (7)~~ fourteen (14) days after receipt of the request to change the physical location of a public charter school, the Commissioner may, in writing, require the public charter school, the local school district and the Division of Elementary and Secondary Education to submit additional information, including without limitation a desegregation analysis, concerning the proposed change in the physical location of the public charter school. Should the Commissioner require the submission of such additional information, he or she shall modify the deadlines contained in Sections 4.04.4, 4.04.5, 4.04.6 of these rules accordingly.

4.02.4 For requests seeking authorizer approval for other amendments to a public school charter, the public charter school applicant shall submit such request not later than thirty-five (35) days prior to the date of the authorizer meeting at which the request will be heard. For open-enrollment public charter schools, each such request shall be contemporaneously sent by the applicant to the superintendent of the local school district in which the public charter school will be located.

4.02.5 For requests seeking authorizer approval for licenses for an existing open-enrollment ~~or adult education public~~ charter school, the open-enrollment ~~or adult education public~~ charter school applicant shall submit such request for license not later than thirty-five (35) days prior to the date of the authorizer meeting at which the request will be heard. Each such request shall be contemporaneously sent by the applicant to the superintendent of the local school district in which the public charter school will be located.

4.02.6 Under circumstances involving imminent peril to the health, welfare, or safety of students, or under circumstances that may negatively impact the continuation of educational services offered by the public charter school, and upon written request from the public charter school, the Commissioner or his or her designee may waive the requirements set forth in Sections 4.02.3 through Sections 4.02.5 of these rules. The decision of whether to

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grant such a waiver is within the sole discretion of the Commissioner or his or her designee. If the Commissioner, or his or her designee, grants such a waiver, he or she shall also adjust the resulting deadlines for local school districts and Division of Elementary and Secondary Education staff contained in Sections 4.04.5 and 4.04.6 of these rules.

4.03 Basis and Procedure for Public Charter School Probation or Charter Modification, Revocation or Denial of Renewal

4.03.1 The authorizer may place a public charter school on probation or may modify, revoke, transfer, assign or deny renewal of its charter if the authorizer determines that the persons operating the public charter school:

4.03.1.1 Committed a material violation of the charter, including failure to satisfy accountability provisions prescribed by the charter;

4.03.1.2 Failed to satisfy generally accepted accounting standards of fiscal management;

4.03.1.3 Failed to comply with ~~this~~ Title 6, Chapter 23 of the Arkansas Code or other applicable law or regulation; or

4.03.1.4 Failed to meet academic or fiscal performance criteria deemed appropriate and relevant for the public charter school by the authorizer.

4.03.1.5 Pursuant to the federal mandate contained in P.L. 111-117, 123 Stat. 3264, the authorizer will consider increases in student academic achievement for all groups of students described in Section 1111 (b)(2)(C)(v) of the Elementary and Secondary Education Act as a primary factor in determining whether to non-renew or revoke a public charter school's charter. However, any one of the circumstances listed in Sections 4.03.1.1 through 4.03.1.4 of these rules may be reason enough to non-renew or revoke a public charter school's charter.

4.03.2 Any action the authorizer may take under Ark. Code Ann. § 6-23-105 and Section 4.03 of these rules shall be based on the best interests of the public

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charter school's students, the severity of the violation, and any previous violation the public charter school may have committed.

4.03.3 The authorizer's procedures for placing a public charter school on probation or modifying, revoking, transferring, assigning, or denying renewal of the public charter school's charter can be found in these rules as follows:

4.03.3.1 Conversion public charter schools: Section 5.00.

4.03.3.2 Open-enrollment public charter schools: Section 6.00.

4.03.3.3 Adult Education public charter schools: Section 11.00.

4.03.4 There is no further right of appeal beyond the determination of the authorizer except as set forth in Sections 9.00 and 10.00 of these Rules.

4.03.5 The Arkansas Administrative Procedure Act, § 25-15-201 et seq., shall not apply to any hearing concerning a public charter school.

4.04 Impact on School Desegregation Efforts

4.04.1 The applicants for a public charter school, the local school board for the district in which the proposed public charter school would be located, and the authorizer shall carefully review the potential impact of an application for a public charter school on the efforts of a public school district or public school districts to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools.

4.04.2 The authorizer shall attempt to measure the likely impact of a proposed public charter school on the efforts of public school districts to achieve and maintain a unitary system.

4.04.3 The authorizer shall not approve any public charter school under Title 6, Chapter 23, or any other act or any combination of acts that hampers, delays, or in any manner negatively affects the desegregation efforts of a public school district or public school districts in this state.

4.04.4 A public charter school or applicant shall provide to the Division of Elementary and Secondary Education, with a copy to the local school board for the school district in which the public charter school is or will be located, a desegregation analysis carefully reviewing the potential impact of the

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public charter school's application or request on the efforts of a public school district or public school districts to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools:

4.04.4.1 In its application for a public charter school charter;

4.04.4.2 In its renewal request for its existing public charter school charter;

4.04.4.3 In its request to change the physical location of its existing charter school if required by the Commissioner in accordance with Section 4.02.3 of these rules;

4.04.4.4 In any request to amend its existing charter to increase its enrollment cap or add grade levels; and

4.04.4.5 For an existing open-enrollment public charter school, in any request for a license.

4.04.5 The local school board of the school district in which the proposed public charter school is or will be located may provide to the Division of Elementary and Secondary Education, with a copy to the public charter school or applicant, a desegregation analysis carefully reviewing the potential impact of an application for a public charter school, or a request under Section 4.04.4 above, on the efforts of a public school district or public school districts to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools:

4.04.5.1 Not later than twenty (20) days prior to the authorizer's consideration of an application of a public charter school;

4.04.5.2 Not later than twenty (20) days prior to the authorizer's consideration of a proposed renewal of a public charter school;

4.04.5.3 Not later than twenty (20) days prior to the authorizer's consideration of a change in the physical location of a public charter school if required by the Commissioner in accordance with Section 4.02.3 of these rules;

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4.04.5.4 Not later than twenty (20) days prior to the authorizer's consideration of a proposed amendment to a public charter that includes an increased enrollment cap or the addition of grade levels; and

4.04.5.5 Not later than twenty (20) days prior to the authorizer's consideration of a proposed license for an existing open-enrollment public charter school.

4.04.5.6 Failure of the local school board of the district in which the proposed public charter school will be located to submit to the Division of Elementary and Secondary Education a desegregation analysis as set forth above shall result in a waiver of the local school board's right to submit such a desegregation analysis to the authorizer.

4.04.6 In accordance with Section 4.04 of these rules, the Division of Elementary and Secondary Education staff shall submit to the authorizer, with copies to the public charter school or applicant and the local school board of the school district in which the public charter school is or will be located, a desegregation analysis:

4.04.6.1 Not later than ten (10) days prior to the authorizer's consideration of an application of a public charter school;

4.04.6.2 Not later than ten (10) days prior to the authorizer's consideration of a proposed renewal of a public charter school;

4.04.6.3 Not later than ten (10) days prior to the authorizer's consideration of a change in physical location of a<u>n open-enrollment</u> public charter school if required by the Commissioner in accordance with Section 4.02.3 of these rules;

4.04.6.4 Not later than ten (10) days prior to the authorizer's consideration of a proposed amendment to a public charter that includes an increased enrollment cap or the addition of grade levels;

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4.04.6.5 Not later than ten (10) days prior to the authorizer's consideration of a proposed license for an existing open-enrollment public charter school; and

4.04.6.6 At any other time as directed by the authorizer or the Commissioner.

4.04.6.7 The Division of Elementary and Secondary Education's desegregation analysis will include as attachments the desegregation analyses provided by the applicant or public charter school and the local school board in which the public charter school is or will be located.

4.05 Observance of Anti-Discrimination Laws

4.05.1 All public charter schools shall observe and comply with all anti-discrimination laws, both federal and state, except where otherwise exempted under federal charter school law.

4.05.2 All public charter schools are responsible for meeting the requirements of the Individuals with Disabilities Education Act (IDEA) and these rules.

4.05.3 All public charter schools are responsible for meeting the requirements of Section 504 of the Rehabilitation Act.

4.06 Reporting Requirements

4.06.1 Within ten (10) calendar days of the close of the first quarter of each school year, a public charter school shall submit a written report to the Division of Elementary and Secondary Education that contains the following information for the current school year:

4.06.1.1 The number of applications for enrollment received;

4.06.1.2 The number of applicants with a disability identified under the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.; and

4.06.1.3 The number of applications for enrollment the public charter school denied and an explanation of the reason for each denial.

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4.06.2 Within ten (10) calendar days of the close of the fourth quarter of each school year, a public charter school shall submit a written report to the Division of Elementary and Secondary Education that contains the following information for the current school year:

4.06.2.1 The number of students in each of the following categories:

4.06.2.1.1 Students who dropped out of the public charter school during the school year;

4.06.2.1.2 Students who were expelled during the school year by the public charter school;

4.06.2.1.3 Students who were enrolled in the public charter school but for a reason other than those cited under Sections 4.06.2.1.1 and 4.06.2.1.2 did not complete the school year at the public charter school;

4.06.2.1.4 Students identified in Sections 4.06.2.1.1 through 4.06.2.1.3 who transferred to another open-enrollment public charter school;

4.06.2.1.5 Students identified in Sections 4.06.2.1.1 through 4.06.2.1.3 who transferred to a private school;

4.06.2.1.6 Students identified in Sections 4.06.2.1.1 through 4.06.2.1.3 who transferred to a home school;

4.06.2.1.7 Students identified in Sections 4.06.2.1.1 through 4.06.2.1.3 who transferred to a school outside of Arkansas; and

4.06.2.1.8 Students identified in Sections 4.06.2.1.1 through 4.06.2.1.3 who transferred to a traditional public school district within Arkansas.

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4.06.2.1.9 The report shall identify the dates of transfer for all students identified in Section 4.06.2.1.8.

4.06.2.2 For all students enrolled in the public charter school, the scores for assessments required under the ~~the~~ Arkansas Educational Support and Accountability Act, Ark. Code Ann. § 6-15-2901 et seq.

4.06.2.3 If there is any discrepancy in the number of students for whom scores are reported under Section 4.06.2.2 of these rules, and the number of students enrolled at the beginning of the school year, the public charter school shall explain in the report the reason for the discrepancy.

4.06.3 The Division of Elementary and Secondary Education shall not exempt a public charter school from the reporting required under Section 4.06 of these rules.

4.06.4 The Division of Elementary and Secondary Education shall publish a copy of each report on the division's website.

4.06.5 If a public charter school fails to comply with Ark. Code Ann. § 6-23-107 and Section 4.06 of these rules, the Division of Elementary and Secondary Education shall note the failure in the annual evaluation of the public charter school.

4.06.6 Every public charter school shall furnish any other information, record, or report requested by the Charter School Office unless disclosure of the information, record, or report is explicitly prohibited by court order or by federal or state law.

4.06.7 The Charter School Office shall, at least annually, post on the Division of Elementary and Secondary Education's website a list of deadlines for which legally required reports are due from the public charter school to the Division of Elementary and Secondary Education.

4.07 Public Charter Schools Receiving Federal Dissemination Grants from the Division of Elementary and Secondary Education

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4.07.1 Public Charter Schools that receive federal dissemination grant funds from the Division of Elementary and Secondary Education shall, by July 1 of each year, provide the Charter School Office with a list of the public charter school's best or promising practices in accordance with their approved dissemination grant applications.

4.07.2 By August 1 of each year, the Charter School Office will post a link of each public charter school's best or promising practices on the Division of Elementary and Secondary Education's website.

4.08 Application Process, Schedule and Forms

4.08.1 A procedure for establishing a public charter school shall be published by the Division of Elementary and Secondary Education as approved by the State Board.

4.08.2 All dates and requirements listed in the procedures for establishing a public charter school shall be strictly followed by the public charter school applicant.

4.08.3 If all dates and requirements listed in the procedures for establishing a public charter school are not strictly followed by the public charter school applicant, the authorizer may refuse to consider the application.

4.08.4 Application forms and other documents needed for the public charter school application process shall be provided by the Charter School Office and are incorporated into these rules as if fully set forth herein.

4.08.5 Any requests for technical assistance by a charter applicant shall be made to the Charter School Office.

4.08.6 Letter of Intent: Each public charter school letter of intent shall be submitted by the potential applicant by electronic means and must be received by the Charter School Office on or before the established deadline. The Charter School Office may refuse to process or review any letter of intent not received by the established deadline. The Charter School Office will electronically acknowledge receipt of received letters of intent.

4.08.7 Charter Application: Each public charter school application shall be submitted by the applicant by electronic means and must be received by the Charter School Office on or before the established deadline. The Charter

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School Office may refuse to process or review any application not received by the established deadline. The Charter School Office will electronically acknowledge receipt of received applications.

4.08.8 The Division of Elementary and Secondary Education shall review the application for a public charter school and present to the authorizer a written evaluation of the application. The division's evaluation shall be sent to the public charter school applicant.

4.08.9 The public charter school applicant shall be allowed an opportunity to submit a written response to the Division of Elementary and Secondary Education's evaluation by an established deadline.

4.08.10 The Division of Elementary and Secondary Education may require additional information from a charter applicant to be delivered by the charter applicant in oral or written form, or both.

5.00 RULES APPLICABLE TO CONVERSION PUBLIC CHARTER SCHOOLS

5.01 Application for Conversion Public Charter School Status

5.01.1 Any public school district may apply to the authorizer for conversion public charter school status for a public school in the public school district in accordance with a schedule approved by the State Board. The authorizer shall not approve an application for conversion public charter school status that has not first been approved by the school district's board of directors.

5.01.2 A public school district's application for conversion public charter school status for the public school may include, without limitation, the following purposes:

5.01.2.1 Adopting research-based school or instructional designs, or both, that focus on improving student and school performance, <u>which may include, without limitation, the implementation of a community school plan, as defined by Ark. Code Ann. § 6-15-3002</u>;

5.01.2.2 Addressing school improvement status resulting from sanctions listed in Ark. Code Ann. §§ 6-15-207(c)(8) and 6-15-2915; or

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5.01.2.3 Partnering with other public school districts or public schools to address students' needs in a geographical location or multiple locations.

5.01.3 An application for a conversion public charter school shall:

5.01.3.1 Describe the results of a public hearing called by the local school board for the purpose of assessing support of an application for conversion public charter school status.

5.01.3.2 Notice of the public hearing shall be:

5.01.3.2.1 Distributed to the community, licensed personnel, and the parents of all students enrolled at the public school for which the public school district initiated the application; and

5.01.3.2.2 Published in a newspaper having general circulation in the public school district at least three (3) weeks prior to the date of the meeting;

5.01.3.3 Describe a plan for school improvement that addresses how the conversion public charter school will improve student learning and meet the state education goals;

5.01.3.4 Outline proposed performance criteria that will be used during the initial five-year period of the charter to measure the progress of the conversion public charter school in improving student learning and meeting or exceeding the state education goals;

5.01.3.5 Describe how the licensed employees and parents of the students to be enrolled in the conversion public charter school will be involved in developing and implementing the school improvement plan and identifying performance criteria;

5.01.3.6 Describe how the concerns of licensed employees and parents of students enrolled in the conversion public charter

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school will be solicited and addressed in evaluating the effectiveness of the improvement plan; and

5.01.3.7 List the specific provisions of Title 6 of the Arkansas Code and the specific rules promulgated by the State Board from which the public charter school will be exempt.

5.01.3.8 If the school wishes the authorizer to designate it as a community school, as defined by Ark. Code Ann. § 6-15-3002:

5.01.3.8.1 Include a request to be designated as a community school; and

5.01.3.8.2 Include a community school plan, as defined by Ark. Code Ann. § 6-15-3002, which must contain, without limitation, an initial plan for serving student needs.

5.01.4 A licensed teacher employed by a public school in the school year immediately preceding the effective date of a charter for a public school conversion within that public school district may not be transferred to or be employed by the conversion public charter school over the licensed teacher's objection, nor shall that objection be used as a basis to deny continuing employment within the public school district in another public school at a similar grade level.

5.01.5 If the transfer of a teacher within the public school district is not possible because only one (1) public school exists for that teacher's certification level, then the local school board shall call for a vote of the licensed teachers in the proposed conversion public charter school site and proceed, at the local school board's option, with the conversion public charter school application if a majority of the licensed teachers approve the proposal.

5.02 Authorization for Conversion Public Charter School Status

5.02.1 As requested by the conversion public charter school applicant, the authorizer shall review the application for conversion public charter school status and may approve any application that:

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5.02.1.1 Provides a plan for improvement at the school level for improving student learning and for meeting or exceeding the state education goals;

5.02.1.2 Includes a set of performance-based objectives and student achievement objectives for the term of the charter and the means for measuring those objectives on at least a yearly basis;

5.02.1.3 Includes a proposal to directly and substantially involve the parents of students to be enrolled in the conversion public charter school, as well as the licensed employees and the broader community, in the process of carrying out the terms of the charter; and

5.02.1.4 Includes an agreement to provide a yearly report to parents, the community, the local school board, and the authorizer that indicates the progress made by the conversion public charter school in meeting the performance objectives during the previous year.

5.02.2 The authorizer may also designate a conversion public charter school as a community school as defined by Ark. Code Ann. § 6-15-3002 provided that the school has met the requirements of section 5.01.3.8 of these rules.

5.03 Resubmission of Conversion Public Charter School Applications

5.03.1 If the authorizer disapproves an application for a conversion public charter school, the authorizer shall notify the applicant in writing of the reasons for the disapproval.

5.03.2 The Division of Elementary and Secondary Education may provide technical assistance to the conversion public charter school applicants in the:

5.03.2.1 Creation of its application; and

5.03.2.2 Modification of its application as directed by the authorizer.

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5.04 Public Conversion Charter School Renewal: The authorizer is authorized to renew charters of conversion public charter schools on a one-year or multiyear basis, not to exceed five (5) years, after the initial five-year period if the renewal is approved by the local school board.

5.05 Teacher Hires when Charter Revoked: If a licensed teacher employed by a public school district in the school year immediately preceding the effective date of the charter is employed by a conversion public charter school and the charter is revoked, the licensed teacher will receive a priority in hiring for the first available position for which the licensed teacher is qualified in the public school district where the licensed teacher was formerly employed.

5.06 Authorizer Hearing Procedures Related to Conversion Public Charter Schools (Application, Renewal, or Request for Charter Amendment)

5.06.1 All persons, with the exception of the attorneys representing the parties, who plan to provide testimony during the hearing must be sworn by the Chair of the body conducting the hearing.

5.06.2 The conversion public charter school or applicant shall have twenty (20) minutes to present its case to the authorizer for approval of the proposed conversion public charter school, renewal, or amendment. The Chair of the authorizing body may grant additional time, if necessary.

5.06.3 Parties opposed to the conversion public charter school application, renewal, or amendment, if any, shall have twenty (20) minutes to present their case to the authorizer for disapproval of the proposed conversion public charter school, renewal, or amendment. The Chair of the authorizing body may grant additional time, if necessary.

5.06.3.1 Any party in opposition that wishes to present or participate at the hearing must notify the division's Charter School Office and the school or applicant in writing no later than ten (10) business days prior to the hearing.

5.06.3.2 If a party in opposition intends to use a presentation, handouts, or any other document, it must provide copies to the Charter School Office and to the school or applicant no later than ten (10) business days prior to the hearing.

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5.06.3.3 A party in opposition that fails to notify the Charter School Office no later than ten (10) business days prior to the hearing may only present or participate at the hearing with the permission of the authorizer.

5.06.4 The conversion public charter school or applicant shall have five (5) minutes to respond to any arguments in opposition to the conversion public charter school application, renewal, or amendment. The Chair of the authorizing body may grant additional time, if necessary.

5.06.5 The authorizer will follow the presentation with discussion of the conversion public charter school application or request and questions, if any, to the conversion public charter school or applicant, opposing parties, or both.

5.06.6 The authorizer may issue a final decision at the hearing or take the matter under advisement until a future scheduled meeting.

5.06.7 The authorizer may defer the vote to approve or disapprove a charter application, renewal, or amendment in order to allow a public charter school or applicant to make modifications or receive technical assistance to correct deficiencies in the application or request.

Note: Additional requirements pertaining to hearings involving the Division of Elementary and Secondary Education as authorizer may be found in Section ~~8.00~~ 9.00 of these Rules. Additional requirements pertaining to hearings involving the State Board of Education as authorizer may be found in Section ~~9.00~~ 10.00 of these Rules.

5.07 Authorizer Hearing Procedures Related to Conversion Public Charter Schools (Modification, Probation or Revocation of Charter)

5.07.1 Not later than twenty (20) days prior to the authorizer meeting at which the matter of modification, probation or revocation will be considered, the Division of Elementary and Secondary Education shall provide written notice of the reason(s) for the proposed action, as well as of the time and location of such hearing, to the conversion public charter school.

5.07.2 All persons, with the exception of the attorneys representing the parties, who plan to provide testimony during the hearing must be sworn by the Chair of the body conducting the hearing.

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5.07.3 The conversion public charter school shall have twenty (20) minutes to present its case to the authorizer regarding the proposed modification, probation, or revocation of the conversion public charter school charter. The Chair of the authorizing body may grant additional time, if necessary.

5.07.4 The authorizer will follow the presentation with discussion of the matter and questions, if any, to representatives from the Division, the conversion public charter school, or both.

5.07.5 The authorizer may issue a final decision at the hearing or take the matter under advisement until a future scheduled meeting.

5.08 A district conversion public charter school may voluntarily surrender its charter prior to the renewal cycle upon written request to the Charter School Office and approval by the authorizer.

5.08.1 A written request to surrender its charter must be received by the Charter School Office no later than thirty-five (35) days prior to the date of the authorizer meeting at which the request will be heard.

5.08.2 The authorizer shall follow the hearing procedure in Section 5.07 of these Rules.

Note: Additional requirements pertaining to hearings involving the Division of Elementary and Secondary Education as authorizer may be found in Section ~~8.00~~ 9.00 of these Rules. Additional requirements pertaining to hearings involving the State Board of Education as authorizer may be found in Section ~~9.00~~ 10.00 of these Rules

6.00 RULES APPLICABLE TO OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS

Note: The rules applicable to Adult Education Charter Schools can be found in Section 11.00 of these Rules.

6.01 Application for an Open-Enrollment Public Charter School

6.01.1 Pursuant to Title 6, Chapter 23 of the Arkansas Code and these rules, an eligible entity may apply to the authorizer to grant a charter for an open-enrollment public charter school to operate in a facility of a commercial or nonprofit entity or a public school district. As noted in Section 6.17.11 of these Rules, an open-enrollment public charter school shall have the right

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of first refusal to purchase or lease for fair market value a closed public school facility or unused portions of a public school facility located in a public school district from which it draws students if the public school district decides to sell or lease the public school facility.

6.01.2 The authorizer shall adopt an application form, schedule, and a procedure that must be used to apply for an open-enrollment public charter school. The State Board shall adopt any applications, forms, schedules and procedures that are required to be promulgated through the Administrative Procedure Act.

6.01.3 The authorizer shall adopt, in conjunction with the application form adopted under section 6.01.2 of these Rules, a scoring rubric that shall constitute criteria to inform the authorizer's approval of a program for which an open-enrollment public charter may be granted. The State Board shall adopt any rubric that is required to be promulgated through the Administrative Procedure Act.

6.01.4 The application to the authorizer for an open-enrollment public charter school shall be made in accordance with a schedule approved by the authorizer. The State Board shall adopt any schedule that is required to be promulgated through the Administrative Procedure Act.

6.01.5 The application form must provide space for including all information required under Title 6, Chapter 23 and these rules to be contained in the charter.

6.01.6 The application for an open-enrollment public charter school shall:

6.01.6.1 Describe the results of a public hearing called by the applicant for the purpose of assessing support for an application for an open-enrollment public charter school.

6.01.6.1.1 Notice of the public hearing shall be published one (1) time a week for three (3) consecutive weeks in a newspaper having general circulation in the public school district in which the open-enrollment public charter school is likely to be located.

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6.01.6.1.1.1 The last publication of notice shall be no less than seven (7) days before the public meeting.

6.01.6.1.1.2 The notice shall not be published in the classified or legal notice section of the newspaper.

6.01.6.1.2 Within seven (7) calendar days following the first publication of notice required under Section 6.01.6.1.1 of these rules, letters announcing the public hearing shall be sent to the superintendent of each of the public school districts from which the open-enrollment public charter school is likely to draw students for the purpose of enrollment and the superintendent of any public school district that is contiguous to the public school district in which the open-enrollment public charter school will be located.

6.01.6.1.3 An affected school district may submit written comments concerning the application to the authorizer to be considered at the time of the authorizer's review of the application.

6.01.6.2 Describe a plan for academic achievement that addresses how the open-enrollment public charter school will improve student learning and meet the state education goals, which may include, without limitation, the implementation of a community school plan, as defined by § 6-15-3002;

6.01.6.3 Outline the proposed performance criteria that will be used during the initial five-year period of the open-enrollment public charter school operation to measure its progress in improving student learning and meeting or exceeding the state education goals;

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6.01.6.4 List the specific provisions of Title 6 of the Arkansas Code and the specific rules and regulations promulgated by the State Board from which the open-enrollment public charter school seeks to be exempted;

6.01.6.5 Describe in general terms, the area within the boundaries of the school district where the applicant intends to obtain a facility to be used for the open-enrollment public charter school.

6.01.6.5.1 If the facility to be used for an open-enrollment public charter school is a public school district facility, the open-enrollment public charter school must operate in the facility in accordance with the terms established by the local school board of the public school district in an agreement governing the relationship between the open-enrollment public charter school and the public school district.

6.01.6.5.2 If the facility that will be used for the open-enrollment public charter school is owned by or leased from a sectarian organization, the terms of the facility agreement must be disclosed to the authorizer.

6.01.6.6 Include a detailed budget and a governance plan for the operation of the open-enrollment public charter school.

6.01.6.7 If the school wishes the authorizer to designate it as a community school, as defined by Ark. Code Ann. § 6-15-3002:

6.01.6.7.1 Include a request to be designated as a community school; and

6.01.6.7.2 Include a community school plan, as defined by Ark. Code Ann. § 6-15-3002, which must contain, without

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limitation, an initial plan for serving student needs.

6.01.7 Review and Approval by the Local School Board:

6.01.7.1 The application may be reviewed and approved by the local school board of the public school district in which the proposed open-enrollment public charter school will operate.

6.01.7.2 Any decision by the local school board approving or disapproving the application must be made within forty-five (45) days of the local school board's receipt of the application.

6.01.7.3 The applicant may submit to the authorizer for expedited review an application approved by the local school board under Section 6.01.7.1 of these rules.

6.01.7.4 If the local school board disapproves the application, or if the local school board takes no action in the time allowed by Section 6.01.7.2 of these Rules, the applicant shall have an immediate right to proceed with a written notice of appeal to the authorizer.

6.01.7.5 The authorizer shall hold a hearing within forty-five (45) calendar days after receipt of the notice of appeal or a request for review, unless the applicant and the local school board agree to a later date.

6.01.7.6 All interested parties may appear at the hearing and present relevant information regarding the application.

6.02 A licensed teacher employed by a public school district in the school year immediately preceding the effective date of a charter for an open-enrollment public charter school operated at a public school facility may not be transferred to or be employed by the open-enrollment public charter school over the licensed teacher's objections.

6.03 Authorization for an Open-Enrollment Public Charter School

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6.03.1 As requested by the applicant for an open-enrollment public charter school, the authorizer shall review the application for an open-enrollment public charter school and may approve any application that:

6.03.1.1 Provides a plan for academic achievement that addresses how the open-enrollment public charter school proposes to improve student learning and meet the state education goals;

6.03.1.2 Includes a set of performance criteria that will be used during the initial five-year period of the open-enrollment public charter school's operation to measure its progress in meeting its academic performance goals;

6.03.1.3 Includes a proposal to directly and substantially involve the parents of students to be enrolled in the open-enrollment public charter school, the licensed employees, and the broader community in carrying out the terms of the open-enrollment charter;

6.03.1.4 Includes an agreement to provide an annual report to parents, the community, and the authorizer that demonstrates the progress made by the open-enrollment public charter school during the previous academic year in meeting its academic performance objectives;

6.03.1.5 Includes a detailed budget, a business plan, and a governance plan for the operation of the open-enrollment public charter school; and

6.03.1.6 Establishes the eligible entity's status as a tax-exempt organization under § 501(c)(3) of the Internal Revenue Code of 1986 prior to the first day of its operation with students.

6.03.2 The authorizer may also designate an open-enrollment public charter school as a community school as defined by Ark. Code Ann. § 6-15-3002 provided that the school has met the requirements of section 6.01.6.7 of these rules.

6.04 Other Application Requirements – Preference for Certain Districts

6.04.1 The authorizer may approve or deny an application based on:

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6.04.1.1 Criteria provided by law;

6.04.1.2 Criteria provided by rule adopted by the authorizer under section 6.01.3 of these Rules;

6.04.1.3 Findings of the authorizer relating to improving student performance and encouraging innovative programs; and

6.04.1.4 Written findings or statements received by the authorizer from any public school district likely to be affected by the open-enrollment public charter school.

6.04.2 The authorizer shall give preference in approving an application for an open-enrollment public charter school to be located in any public school district:

6.04.2.1 When the percentage of students who qualify for free or reduced-price lunches is above the average for the state;

6.04.2.2 When the district has been classified by the State Board as in need of Level 5-- Intensive Support under the Arkansas Educational Support and Accountability Act, Ark. Code Ann. § 6-15-2901 et seq.; or

6.04.2.3 When the district has been classified by the Division of Elementary and Secondary Education as in some phase of fiscal distress under the Arkansas Fiscal Assessment and Accountability Program, § 6-20-1901 et seq., if the fiscal distress status is a result of administrative fiscal mismanagement, as determined by the State Board.

6.04.3 The Division of Elementary and Secondary Education, State Board, or a combination of the division and the State Board may grant no more than a total of twenty-four (24) charters for open-enrollment public charter schools except as provided under Section 6.04.3.1 below.

6.04.3.1 If the cap on the number of charters available for ~~an~~ open-enrollment public charter schools is within two (2) charters of meeting any existing limitation or cap on available open-enrollment charters, the number of available charters shall automatically increase by five (5) slots more than the most

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recent existing limitation or cap on open-enrollment charters.

6.04.3.2 By March 1 each year, the Division of Elementary and Secondary Education shall issue a Commissioner's Memo stating the existing limitation on the number of charters available for open-enrollment public charter schools and the number of charters available for open-enrollment public charter schools during the next application cycle.

6.04.4 An open-enrollment public charter applicant's school campus shall be limited to a single open-enrollment public charter school per charter except as allowed in Section 6.05 of these rules.

6.04.5 An open-enrollment public charter school shall not open in the service area of a public school district administratively reorganized under Ark. Code Ann. § 6-13-1601 et seq., until after the third year of the administrative reorganization.

6.04.6 A private or parochial elementary or secondary school shall not be eligible for open-enrollment public charter school status.

6.05 Open-Enrollment Public Charter School Licenses

6.05.1 A charter applicant that receives an approved open-enrollment public charter may petition the authorizer for additional licenses to establish an open-enrollment public charter school in any of the various congressional districts in Arkansas if the applicant meets the following conditions:

6.05.1.1 The approved open-enrollment public charter applicant has demonstrated academic success as defined by the State Board for all public schools;

6.05.1.2 The approved open-enrollment public charter applicant has not:

6.05.1.2.1 Been subject to any disciplinary action by the authorizer;

6.05.1.2.2 Been classified as in fiscal distress or in need of Level 5--Intensive Support;

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6.05.1.2.3 Had its open-enrollment public charter placed on charter school probation or suspended or revoked under Ark. Code Ann. § 6-23-105 or Section 4.03 of these rules; and

6.05.1.2.4 The authorizer determines in writing by a majority of a quorum present that the open-enrollment public charter applicant has generally established the educational program results and criteria set forth in Section 6.05 of these rules.

6.06 Resubmission of Open-Enrollment Public Charter School Applications

6.06.1 If the authorizer disapproves an application for an open-enrollment public charter school, the authorizer shall notify the applicant in writing of the reasons for such disapproval.

6.06.2 The Division of Elementary and Secondary Education may provide technical assistance to the applicant for an open-enrollment public charter school in the:

6.06.2.1 Creation of its application; and

6.06.2.2 Modification of its application as directed by the authorizer.

6.07 Contents of Open-Enrollment Public Charters

6.07.1 An open-enrollment public charter granted by the authorizer shall:

6.07.1.1 Describe the educational program to be offered;

6.07.1.2 Specify the period for which the open-enrollment public charter or any renewal is valid;

6.07.1.3 Provide that the continuation or renewal of the open-enrollment public charter is contingent on acceptable student performance on assessment instruments adopted by the State Board and on compliance with any accountability provision

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specified by the open-enrollment public charter, by a deadline, or at intervals specified by the open-enrollment public charter;

6.07.1.4 Establish the level of student performance that is considered acceptable for the purposes of Section 6.07.1.3 of these rules;

6.07.1.5 Specify any basis, in addition to a basis specified by Title 6, Chapter 23 of the Arkansas Code or Section 4.03 of these rules, on which the open-enrollment public charter school may be placed on probation or its charter revoked or on which renewal of the open-enrollment public charter school may be denied;

6.07.1.6 Prohibit discrimination in admissions policy on the basis of gender, national origin, race, ethnicity, religion, disability, or academic or athletic eligibility, except as follows:

6.07.1.6.1 The open-enrollment public charter school may adopt admissions policies that are consistent with federal law, regulations, or guidelines applicable to charter schools;

6.07.1.6.2 Consistent with the requirements of Section 6.07.1.14.3 of these rules, the open-enrollment public charter school may allow a weighted lottery to be used in the student selection process when necessary to comply with Title VI of the federal civil rights act of 1964, Title IX of the federal Education Amendments of 1972, the equal protection clause of the Fourteenth Amendment to the United States Constitution, a court order, or a federal or state law requiring desegregation; and

6.07.1.6.3 The open-enrollment public charter may provide for the exclusion of a student who has been expelled from another public school district in the same manner as a board of

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directors of a public school district under Ark. Code Ann. § 6-18-510.

6.07.1.7 Specify the grade levels to be offered;

6.07.1.8 Describe the governing structure of the program;

6.07.1.9 Specify the qualifications to be met by professional employees of the program;

6.07.1.10 Describe the process by which the persons providing the program will adopt an annual budget;

6.07.1.11 Describe the manner in which the annual audit of the financial and programmatic operations of the program is to be conducted, including the manner in which the persons providing the program will provide information necessary for the public school district in which the program is located to participate;

6.07.1.12 Describe the facilities to be used, including the terms of the facility utilization agreement if the facility for the open-enrollment public charter school is owned or leased from a sectarian organization;

6.07.1.13 Describe the geographical area, public school district, or school attendance area to be served by the program;

6.07.1.14 Specify the methods for applying for admission, enrollment criteria, and student recruitment and selection processes.

6.07.1.14.1 Except as provided in Section 6.07.1.14.2 of these rules, if more eligible students apply for a first-time admission than the open-enrollment public charter school is able to accept by the annual deadline that the open-enrollment public charter school has established for the receipt of applications for the next school year, the open-enrollment public charter must require the open-enrollment public charter school to use a

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random, anonymous student selection method that shall be described in the charter application.

6.07.1.14.1.1 If there are still more applications for admissions than the open-enrollment public charter school is able to accept after the completion of the random, anonymous student selection method, then the open-enrollment public charter school shall place the applicants on a waiting list for admission.

6.07.1.14.1.2 The waiting list is valid until the next time the open-enrollment public charter school is required to conduct a random, anonymous student selection.

6.07.1.14.2 However, an open-enrollment public charter school may allow a preference for:

6.07.1.14.2.1 Children of the founding members and children of full-time employees and teachers of the eligible entity. The number of enrollment preferences shall not exceed ten percent (10%) of the total number of students enrolled in the open-enrollment public charter school; and

6.07.1.14.2.2 Siblings of students currently enrolled in the open-enrollment public charter school.

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6.07.1.14.3 The open-enrollment public charter may use a weighted lottery in the student selection process only when necessary to comply with a:

6.07.1.14.3.1 Federal court order; or

6.07.1.14.3.2 Federal administrative order issued by an appropriate federal agency having proper authority to enforce remedial measures necessary to comply with Title VI of the federal Civil Rights Act of 1964, Title IX of the federal Education Amendments of 1972, and the equal protection clause of the Fourteenth Amendment to the United States Constitution.

6.07.1.15 Include a statement that the eligible entity will not discriminate on the basis of race, sex, national origin, ethnicity, religion, age, or disability in employment decisions, including hiring and retention of administrators, teachers, and other employees whose salaries or benefits are derived from any public moneys.

6.08 Renewal of an Open-Enrollment Charter: After the initial five-year period of an open-enrollment public charter, the authorizer may renew the open-enrollment public charter on a one-year or multiyear basis, not to exceed twenty (20) years.

6.09 Priority Hiring for Teachers: If a licensed teacher employed by a public school district in the school year immediately preceding the effective date of the open-enrollment public charter is employed by an open-enrollment public charter school and the open-enrollment public charter is revoked, the licensed teacher will receive a priority in hiring for the first available position for which the licensed teacher is qualified in the school district where the licensed teacher was formerly employed.

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6.10 Status Report: The authorizer shall report to the General Assembly each biennium and to the House Committee on Education and the Senate Committee on Education during the interim between regular sessions of the General Assembly the following information:

6.10.1 The status of the open-enrollment public charter school programs; and

6.10.2 A summary of the authorizing activities in the preceding year, including without limitation, the number and type of charters approved, denied, and amended.

6.11 Authority under a Charter for Open-Enrollment Public Charter Schools

6.11.1 An open-enrollment public charter school:

6.11.1.1 Shall be governed by an eligible entity that is fiscally accountable under the governing structure as described by the charter;

6.11.1.2 Shall provide instruction to students at one (1) or more elementary or secondary grade levels as provided by the charter;

6.11.1.3 Shall retain the authority to operate under the charter contingent on satisfactory student performance as provided by the charter in accordance with Title 6, Chapter 23 of the Arkansas Code and these rules;

6.11.1.4 Shall have no authority to impose taxes;

6.11.1.5 Shall not incur any debts without the prior review and approval of the Commissioner;

6.11.1.5.1 Requests for approval of debt must be submitted to the Commissioner by the open-enrollment public charter school no later than thirty (30) days prior to the date upon which the debt will be incurred.

6.11.1.5.2 Under circumstances involving imminent peril to the health, welfare, or safety of

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students, or under circumstances that may negatively impact the continuation of educational services offered by the public charter school, and upon written request from the public charter school, the Commissioner may waive the thirty (30) day deadline set forth in Section 6.11.1.5.1 of these rules. The decision of whether to grant such a waiver is within the sole discretion of the Commissioner.

6.11.1.6 Shall not enter into any short-term line of credit, or receive any funds from a short-term line of credit, without prior notice to the Commissioner;

6.11.1.6.1 Notice of a short-term line of credit must identify the lender or creditor, the principal amount, the interest rate, and the payment terms;

6.11.1.6.2 No public funds may be used to repay any short-term line of credit unless prior notice of the line of credit was given to and received by the Commissioner;

6.11.1.7 Shall not charge students tuition or fees that would not be allowable charges in the public school districts; and

6.11.1.8 Shall not be religious in its operations or programmatic offerings.

6.11.2 An open-enrollment public charter school is subject to any prohibition, restriction, or requirement imposed by Title 6 of the Arkansas Code and any rule and regulation promulgated by the State Board under Title 6 of the Arkansas Code relating to:

6.11.2.1 Monitoring compliance with Title 6 of the Arkansas Code, as determined by the Commissioner;

6.11.2.2 Public school accountability under Title 6 of the Arkansas Code;

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6.11.2.3 High school graduation requirements as established by the State Board;

6.11.2.4 Special education programs as provided by Title 6 of the Arkansas Code;

6.11.2.5 Conducting criminal background checks for employees as provided by Title 6 of the Arkansas Code;

6.11.2.6 Health and safety codes as established by the State Board and local governmental entities; and

6.11.2.7 Ethical guidelines and prohibitions as established by Ark. Code Ann. § 6-24-101 et seq., and any other controlling state or federal law regarding ethics or conflicts of interest; and

6.11.2.8 Reporting through the Arkansas Public School Computer Network applications as provided under Title 6 of the Arkansas Code.

6.11.3 An open-enrollment public elementary charter school is subject to the requirements of Ark. Code Ann. § 6-16-102(a) concerning recess and may only seek a waiver of those requirements if the school:

6.11.3.1 Submits to the Division for approval of an alternative plan for recess that:

6.11.3.1.1 Exceeds the required minimum amount of minutes combined for physical activity under Ark. Code Ann. § 6-16-132 and recess under Ark. Code Ann. § 6-16-102(a); and

6.11.3.1.2 Provides for both structured and unstructured social time; or

6.11.3.2 Is approved by the division to operate as a virtual school.

6.12 Enrollment Numbers and Deadline:

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6.12.1 An open-enrollment public charter school may enroll a number of students not to exceed the number of students specified in its charter.

~~6.12.2~~ 6.12.2 Any student enrolling in an open-enrollment public charter school shall enroll in that school by the deadline established in Ark. Code Ann. § 6-23-402 for the upcoming school year during which the student will be attending the open-enrollment public charter school.

6.12.3 An open-enrollment public charter school shall have a policy concerning whether the open-enrollment public charter school will enroll students after the deadline established in Ark. Code Ann. § 6-23-402.

~~6.12.3~~ 6.12.4 However, if a student enrolled by the deadline established in Ark. Code Ann. § 6-23-402 should no longer choose to attend the open-enrollment public charter school or if the open-enrollment public charter school has not yet met its enrollment cap, the open-enrollment public charter school may enroll a number of replacement or additional students not to exceed the enrollment cap of the open-enrollment public charter school.

~~6.12.4~~ 6.12.5 Open-enrollment public charter schools shall keep records of attendance in accordance with the law and submit quarterly attendance reports to the Division of Elementary and Secondary Education.

6.13 Annual Audit of Open-Enrollment Public Charter School Required:

6.13.1 Any other provision of the Arkansas Code or these rules notwithstanding, an open-enrollment public charter school shall be subject to the same auditing and accounting requirements as any other public school district in the state.

6.13.2 An open-enrollment public charter school shall prepare an annual certified audit of the financial condition and transactions of the open-enrollment public charter school as of June 30 each year in accordance with auditing standards generally accepted in the United States and Government Auditing Standards issued by the Comptroller General of the United States, and containing any other data as determined by the State Board for all public schools.

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6.13.3 If the school is an open-enrollment public charter school in its first year of operation, the Legislative Auditor shall prepare the required annual financial audit for the school unless:

6.13.3.1 The open-enrollment public charter school chooses to retain the services of a licensed certified public accountant in public practice in good standing with the Arkansas State Board of Public Accountancy; and

6.13.3.2 The authorizer approves the open-enrollment public charter school's use of an entity other than the Legislative Auditor to prepare the annual financial audit.

6.13.4 No open-enrollment public charter school shall engage an accountant or accounting firm to conduct any audit if the accountant or accounting firm is listed on any ineligibility list maintained by the Division of Elementary and Secondary Education or the Arkansas Legislative Audit.

6.14 Evaluation of Open-Enrollment Public Charter Schools:

6.14.1 The Division of Elementary and Secondary Education shall cause to be conducted an annual evaluation of open-enrollment public charter schools.

6.14.2 An annual evaluation shall include, without limitation, consideration of:

6.14.2.1 Student scores under the statewide assessment program, the Arkansas Educational Support and Accountability Act, Ark. Code Ann. § 6-15-2901 et seq.;

6.14.2.2 Student attendance;

6.14.2.3 Student grades;

6.14.2.4 Incidents involving student discipline;

6.14.2.5 Socioeconomic data on students' families;

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6.14.2.6 Parental satisfaction with the schools;

6.14.2.7 Student satisfaction with the schools; and

6.14.2.8 The open-enrollment public charter school's compliance with Ark. Code Ann. § 6-23-107 and Section 4.06 of these rules.

6.14.3 The authorizer may require the charter holder to appear before the authorizer to discuss the results of the evaluation and to present further information to the authorizer as the authorizer deems necessary.

6.15 Monthly Reports: An open-enrollment public charter school in its initial school year of operation shall provide monthly reports on its enrollment status and compliance with its approved budget for the current school year to the Division of Elementary and Secondary Education.

6.16 Division Review: The Division of Elementary and Secondary Education shall:

6.16.1 Conduct an end-of-semester review of each open-enrollment public charter school that is in its initial school year of operation at the end of the first semester and at the end of the school year; and

6.16.2 Report to the State Board and the Commissioner on the open-enrollment public charter school's:

6.16.2.1 Overall financial condition; and

6.16.2.2 Overall condition of student enrollment.

6.17 Funding for Open-Enrollment Public Charter Schools

6.17.1 An open-enrollment public charter school shall receive funds equal to the amount that a public school would receive under Ark. Code Ann. § 6-20-2305(a) and (b) as well as any other funding that a public charter school is entitled to receive under law or under rules promulgated by the State Board.

6.17.2 For the first year of operation, the first year operating under a new license, the first year adding a new campus, and any year the open-enrollment public charter school adds a new grade at any campus, the foundation funding for an open-enrollment public charter school is determined as follows:

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6.17.2.1 The initial funding estimate shall be based on enrollment as of the deadline established by Ark. Code Ann. § 6-23-501;

6.17.2.2 In December, funding will be adjusted based upon the first quarter average daily membership; and

6.17.2.3 A final adjustment will be made after the current three-quarter average daily membership is established.

6.17.3 For the second year and each school year thereafter, the previous year's average daily membership will be used to calculate foundation funding amounts.

6.17.4 Enhanced Student Achievement state categorical funding under Ark. Code Ann. § 6-20-2305(b)(4) shall be provided to an open-enrollment public charter school as follows:

6.17.4.1 For the first year of operation, the first year operating under a new license, the first year adding a new campus, and any year the open-enrollment public charter school adds a new grade at any campus, free or reduced-price meal eligibility data as reported by October 1 of the current school year will be used to calculate the enhanced student achievement state categorical funding under the State Board rules governing special needs funding; and

6.17.4.2 For the second year and each school year of operation thereafter, the previous year's October 1 enhanced student achievement student count as specified in State Board rules governing special needs funding will be used to calculate enhanced student achievement state categorical funding for the open-enrollment public charter school.

6.17.5 Professional development funding under Ark. Code Ann. § 6-20-2305(b)(5) shall be provided to an open-enrollment public charter school for the first year of operation, the first year operating under a new license, the first year adding a new campus, and any year the open-enrollment public charter school adds a new grade at any campus as follows:

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6.17.5.1 For the first year of operation, the open-enrollment public charter school shall receive professional development funding based upon the initial projected enrollment student count as of the date required by Ark. Code Ann. § 6-23-501 multiplied by the per-student professional development funding amount under Ark. Code Ann. § 6-20-2305(b)(5) for that school year.

6.17.5.2 For the second year and each school year thereafter, professional development funding will be based upon the previous year's average daily membership multiplied by the per-student professional development funding amount for that school year.

6.17.6 The Division of Elementary and Secondary Education shall distribute other categorical funding under Ark. Code Ann. § 6-20-2305(a) and (b) for which an open-enrollment public charter school is eligible as provided by state law and rules promulgated by the State Board.

6.17.7 An open-enrollment public charter school shall not be denied foundation funding or categorical funding in the first year or any year of operation provided that the open-enrollment public charter school submits to the Division of Elementary and Secondary Education the number of students eligible for funding as specified in applicable rules.

6.17.8 Foundation funding for an open-enrollment public charter school shall be paid in twelve (12) installments each fiscal year.

6.17.9 An open-enrollment public charter school may receive any state and federal aids, grants, and revenue as may be provided by law.

6.17.10 Open-enrollment public charter schools may receive gifts and grants from private sources in whatever manner is available to public school districts.

6.17.11 Source of Funding for Open-Enrollment Public Charter Schools

6.17.11.1 Open-enrollment public charter schools shall be funded each year through funds set aside from funds appropriated to state foundation funding aid in the Public School Fund.

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6.17.11.2 The amount set aside shall be determined by the State Board.

6.18 Use of Funding by Open-Enrollment Public Charter Schools

6.18.1 An open-enrollment public charter school may not use the moneys that it receives from the state for any sectarian program or activity or as collateral for debt.

6.18.2 No indebtedness of any kind incurred or created by the open-enrollment public charter school shall constitute an indebtedness of the state or its political subdivisions, and no indebtedness of the open-enrollment public charter school shall involve or be secured by the faith, credit, or taxing power of the state or its political subdivisions.

6.18.3 Every contract or lease into which an open-enrollment public charter school enters shall include the wording of Section 6.18.2 of these rules.

6.19 Employee Benefits: Employees of an open-enrollment public charter school shall be eligible to participate in all benefits programs available to public school employees.

6.20 Deposit and Management of Charter School Funds

6.20.1 All charter school funds, including state foundation funding, other state funding, federal funding, and grants and private donations received directly by a charter school, shall be deposited into a bank account titled in the name of the charter school.

6.20.2 Non-charter school funds of the sponsoring entity shall be deposited in a separate bank account titled in the name of the sponsoring entity and shall not be commingled with charter school funds.

6.20.3 If the charter school operates an approved federal child nutrition program, food service revenues shall be deposited and managed as required by federal law and by any regulations promulgated by the Division of Elementary and Secondary Education, Child Nutrition Unit or the Arkansas Department of Human Services.

6.20.4 Charter schools may, but are not required to, secure bank accounts as detailed in Ark. Code Ann. § 6-20-222.

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6.21 Assets of Open-Enrollment Public Charter School as Property of State

6.21.1 Upon dissolution of the open-enrollment public charter school or upon nonrenewal or revocation of the charter, all net assets of the open-enrollment public charter school, including any interest in real property, purchased with public funds shall be deemed the property of the state, unless otherwise specified in the charter of the open-enrollment public charter school.

6.21.2 If the open-enrollment public charter school used state funds to purchase or finance personal property, real property, or fixtures for use by the open-enrollment public charter school, the Division of Elementary and Secondary Education may require that the property be sold.

6.21.3 The state has a perfected priority security interest in the net proceeds from the sale or liquidation of the property to the extent of the public funds used in the purchase.

6.22 Authorizer Hearing Procedures Related to Open-Enrollment Public Charter Schools (Application, Renewal, or Request for Charter Amendment)

6.22.1 All persons, with the exception of the attorneys representing the parties, who plan to provide testimony during the hearing must be sworn by the Chair of the body conducting the hearing.

6.22.2 The open-enrollment public charter school or applicant shall have twenty (20) minutes to present its case to the authorizer for approval of the proposed open-enrollment public charter school application, renewal, or request. The Chair of the authorizing body may grant additional time, if necessary.

6.22.3 Parties opposed to the open-enrollment public charter school application, renewal, or request, if any, shall have twenty (20) minutes to present its case to the authorizer for disapproval of the proposed open-enrollment public charter school application, renewal, or request. The Chair of the authorizing body may grant additional time, if necessary.

6.22.3.1 Any party in opposition that wishes to present or participate at the hearing must notify the division's Charter School Office and the school or applicant in writing no later than ten (10) business days prior to the hearing.

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6.22.3.2 If a party in opposition intends to use a presentation, handouts, or any other document, it must provide copies to the Charter School Office and to the school or applicant no later than ten (10) business days prior to the hearing.

6.22.3.3 A party in opposition that fails to notify the Charter School Office no later than ten (10) business days prior to the hearing may only present or participate at the hearing with the permission of the authorizer.

6.22.4 The open-enrollment public charter school or applicant shall have five (5) minutes to respond to any arguments in opposition to the open-enrollment public charter school application, renewal, or request. The Chair of the authorizing body may grant additional time, if necessary.

6.22.5 The authorizer will follow the presentation with discussion of the open-enrollment public charter school application, renewal, or request, and questions, if any, to the open-enrollment public charter school or applicant, opposing parties, or both.

6.22.6 The authorizer may issue a final decision at the hearing or take the matter under advisement until a future scheduled meeting.

6.22.7 The authorizer may defer the vote to approve or disapprove a charter application, renewal, or request in order to allow a public charter school or applicant to make modifications or receive technical assistance to correct deficiencies in the application, renewal, or request.

6.22.8 During the roll call vote on each open-enrollment public charter initial application, if a particular member of the authorizing body votes against the initial application, that member should state his or her reasons for disapproval as necessary to comply with Ark. Code Ann. § 6-23-305.

Note: Additional requirements pertaining to hearings involving the Division of Elementary and Secondary Education as authorizer may be found in Section ~~8.00~~ 9.00 of these Rules. Additional requirements pertaining to hearings involving the State Board of Education as authorizer may be found in Section ~~9.00~~ 10.00 of these Rules.

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6.23 Authorizer Hearing Procedures Related to Open-Enrollment Public Charter Schools (Modification, Probation, Transfer, Assignment, or Revocation of Charter)

6.23.1 Not later than twenty (20) days prior to the authorizer meeting at which the matter of modification, probation, transfer, assignment, or revocation will be considered, the Division of Elementary and Secondary Education shall provide written notice of the reason(s) for the proposed action, as well as of the time and location of such hearing, to the open-enrollment public charter school.

6.23.2 All persons, with the exception of the attorneys representing the parties, who plan to provide testimony during the hearing must be sworn by the Chair of the body conducting the hearing.

6.23.3 The open-enrollment public charter school shall have twenty (20) minutes to present its case to the authorizer regarding the proposed modification, probation, transfer, assignment, or revocation of the open-enrollment public charter school charter. The Chair of the authorizing body may grant additional time, if necessary.

6.23.4 The authorizer will follow the presentation with discussion of the matter and questions, if any, to representatives from the Division of Elementary and Secondary Education, the open-enrollment public charter school, or both.

6.23.5 The authorizer may issue a final decision at the hearing or take the matter under advisement until a future scheduled meeting.

Note: Additional requirements pertaining to hearings involving the Division of Elementary and Secondary Education as authorizer may be found in Section ~~8.00~~ 9.00 of these Rules. Additional requirements pertaining to hearings involving the State Board of Education as authorizer may be found in Section ~~9.00~~ 10.00 of these Rules.

6.24 The authorizer may allow the voluntary transfer or assignment of an open-enrollment charter school upon petition by the public charter school to the authorizer.

6.24.1 If the authorizer transfers or assigns the charter of an open-enrollment charter school to an eligible entity, the authorizer shall not hold the applicant responsible for any activity that occurred before the transfer or

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assignment, which includes without limitation any disciplinary action taken by the authorizer.

6.24.2 After the authorizer transfers or assigns a charter to an eligible entity, the authorizer shall:

6.24.2.1 Direct the division to issue a new local education agency number as required under Ark. Code Ann. § 25-6-107; and

6.24.2.2 Direct the division not to issue an annual report as required under Ark. Code Ann. § 6-15-2101 until the eligible entity to which the charter was transferred has completed at least one (1) school year.

6.25 Charter School Facilities: An open-enrollment public charter school shall not commence operations with students in any new or renovated facility unless the school has obtained for the new construction or renovation:

6.25.1 A certificate of occupancy issued by a local code official approved by the state fire marshal;

6.25.2 A certificate of occupancy or other approval of the state fire marshal; or

6.25.3 A certificate of substantial completion issued by a licensed architect.

6.26 Unused or Underutilized Public School Facilities: An open-enrollment public charter school may give notice of its intent to purchase or lease an unused or underutilized public school facility or other real property from a school district pursuant to the Commission for Arkansas Public School Academic Facilities and Transportation Rules Governing Right of Access to Unused or Underutilized Public School Facilities and the Sale or Lease of Public School Facilities.

6.26.1 If there is more than one (1) open-enrollment public charter school located within the boundaries of the school district, the first right of refusal shall be available to the open-enrollment public charter school according to the following priorities:

6.26.1.1 The percentage of students who qualify for free or reduced-price lunches;

6.26.1.2 Student growth and achievement based on the most recently available data;

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6.26.1.3 The likelihood of immediate growth of the charter holder; and

6.26.1.4 The level of risk, as determined by the following criteria:

6.26.1.4.1 Whether the open-enrollment public charter school has been subject to any disciplinary action by the authorizer;

6.26.1.4.2 Whether the open-enrollment public charter school has been classified as in fiscal distress or in need of Level 5-- Intensive support; and

6.26.1.4.3 Whether the open-enrollment public charter school has been placed on probation or suspended under Ark. Code Ann. § 6-23-105 and these Rules.

6.26.2 If there is more than one (1) open-enrollment public charter school located within the boundaries of the school district that gives notice of its intent to purchase or lease the public school facility, the public school district must notify each of the interested open-enrollment public charter schools that the charter authorizer must decide which open-enrollment public charter school will receive the property based on a review of the comparative status of the school using the criteria listed in Section ~~6.27.1~~ 6.26.1.

6.26.3 Any open-enrollment public charter school that receives notice under Section ~~6.27.2~~ 6.26.2 of these Rules may request a hearing in front of the charter authorizer to determine which school is entitled to the property pursuant to the criteria in Section ~~6.27.1~~ 6.26.1.

6.26.3.1 A request made under Section ~~6.27.3~~ 6.26.3 must be made in writing to the Charter School Office no later than thirty-five (35) days prior to the date of the authorizer meeting at which the request will be heard.

6.26.4 The charter authorizer shall determine which open-enrollment public charter school is entitled to the property after a review of the comparative status and educational needs of the open-enrollment public charter schools as evidenced by the priority criteria in Section ~~6.27.1~~ 6.26.1.

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7.00 RULES APPLICABLE TO CHARTER SCHOOLS DESIGNATED AS A SCHOOL FOR AGRICULTURAL STUDIES

7.01 The authorizer may designate a public charter school as a School for Agricultural Studies.

7.02 To be designated as a School for Agricultural Studies, the applicant must include in its original application or charter amendment request the following:

7.02.1 A request to be designated as a School for Agricultural Studies;

7.02.2 The school's agricultural plan, which shall include without limitation:

7.02.2.1 The type of agricultural industry in the school's local region;

7.02.2.2 How the school will address the needs of that industry and the state's agricultural-based economy;

7.02.2.3 Anticipated support from the agricultural industry; and

7.02.3 A written review of the agricultural studies plan from the Division of Career Education.

7.03 A School for Agricultural Studies may petition the State Board of Education for creation of a new school district by detachment under Ark. Code Ann. § 6-13-1501 et seq., subject to the limitations in Section 7.04 below, if the School for Agricultural Studies meets the following conditions:

7.03.1 The school shall complete three (3) academic years serving students as a School for Agricultural Studies;

7.03.2 The school must not currently be classified as in need of Level 5--Intensive Support, fiscal distress, or facilities distress;

7.03.3 The school must not be in probationary status for violation of the Standards for Accreditation of Arkansas Public Schools and School Districts; and

7.03.4 The school must show evidence that the school is meeting its stated goals.

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7.04 A School for Agricultural Studies shall not be approved to create a new school district by detachment with fewer than three hundred and fifty (350) students as determined by a feasibility study included with the petition.

7.05 A School for Agricultural Studies is exempt from the minimum student enrollment and square mileage requirements under Ark. Code Ann. § 6-13-1501(a)(2) and § 6-13-1502.

7.06 Nothing prohibits a public charter school from offering agricultural programming without the designation as a School for Agricultural Studies.

7.07 A public charter school shall not refer to itself as a School for Agricultural Studies unless it is designated as a School for Agricultural Studies under Ark. Code Ann. § 6-23-108 and Section 7.00 of these Rules.

8.00 RULES APPLICABLE TO THE CLOSURE OR DISSOLUTION OF PUBLIC CHARTER SCHOOLS

8.01 Required Notices

8.01.1 No later than fifteen (15) days after the authorizer votes to non-renew or revoke the charter, or the charter otherwise dissolves, the charter school or sponsoring entity shall furnish to the Division of Elementary and Secondary Education:

8.01.1.1 A complete inventory of all personal property, real property, equipment, and fixtures owned or financed by the charter school, with documentation showing a description of each asset, serial number, tag number, location, estimated value, any encumbrance on the asset including recorded security interest or lien, and the source of funds for each purchase;

8.01.1.2 The account number and financial institution contact information for every account in which the charter school or sponsoring entity deposited any state or federal funds at any time, and complete bank statements for the twelve (12) months preceding the effective date of closure;

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8.01.1.3 A complete list of all debts or obligations owed by the charter school and still outstanding as of the effective date of closure, including all outstanding checks or warrants;

8.01.1.4 A complete list of all accounts receivable owed to the charter school and still outstanding as of the effective date of closure; and

8.01.1.5 Complete contact information for every member of the charter school's board or governing entity.

8.01.2 In the event that the authorizer revokes the charter due to misuse, fraud, or theft of public funds, the division shall immediately obtain the information required in 8.01.1.

8.01.3 If the authorizer votes to non-renew or revoke the charter, or the charter otherwise dissolves, the charter school or sponsoring entity shall, on a timeline established by the Division, send written notice of closure, as approved by the Division, to:

8~~7~~.01.3.1 The parents and legal guardians of all students;

8.01.3.2 All employees of the charter school;

8.01.3.3 All creditors of the charter school; and

8.01.3.4 Every school district in which any students of the charter school reside.

8.01.4 Every notice sent pursuant to Section ~~8.01.2~~ 8.01.3 above must include:

8.01.4.1 The effective date of closure and last day of regular instruction; and

8.01.4.2 Contact information of the person employed or retained by the charter school or sponsoring entity to handle inquiries regarding the closure.

8.01.5 Parental notices sent pursuant to Section ~~8.01.2~~ 8.01.3 must additionally include:

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8.01.5.1 The student's school district of residence, and the contact information for that district's enrollment office;

8.01.5.2 A statement that parents should contact the resident school district or any charter school where the student intends to enroll and should ask that school or district to request transfer of the student's educational records from the closing charter school; and

8.01.5.3 Contact information for the individual or entity charged with storage of student records after the school's closure.

8.01.6 Employee notices sent pursuant to Section ~~8.01.2~~ 8.01.3 must additionally include the date of termination of all employee benefits (health insurance, etc.), along with any COBRA or other documentation required by law.

8.01.6 The deadline for any notice required by this Section may be extended by the Charter School Office for good cause.

8.02 Assets of Open-Enrollment Public Charter School as Property of State

8.02.1 Upon the dissolution, non-renewal, or revocation of an open-enrollment public charter, all net assets of the open-enrollment public charter school purchased with public funds, including any interest in real property, shall be deemed the property of the state, unless otherwise specified in the charter or by federal law.

8.02.2 Immediately upon the revocation, transfer, or assignment of an open-enrollment charter by the authorizer, the public charter school shall:

~~8.02.2.1 Transfer to the division all state funds held by the public charter school, which the division shall hold in receivership; and~~

~~8.02.2.2~~ 8.02.2.1 Provide to the division a detailed accounting of all accounts payable due from the state funds held by the open-enrollment public charter school and any additional information or records requested by the division concerning the disbursement of the state funds.

8.02.2.2 Provide the division with a comprehensive list of all banking

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information and accounts in which the open-enrollment public charter school holds state or federal funds.

8.02.2.3 Receive prior approval from the division for an expenditure over five hundred dollars ($500); and

8.02.2.4 Work in coordination with the division to draft a charter closure plan.

8.02.3 The Commissioner or his or her designee shall take all steps necessary to protect and recover any and all state assets in the possession or control of the former charter school or the sponsoring entity.

8.02.3.1 If any state or federal funds remain in any bank account(s) titled in the name of the charter school or sponsoring entity, the Commissioner or his or her designee shall notify the financial institution that the account(s) holds state or federal funds and shall direct that the account(s) be immediately frozen, subject to further direction by the Commissioner or his or her designee.

8.02.3.2 Any funds remaining in any bank account(s) titled in the name of the charter school shall be presumed to be state or federal funds until such time as the sponsoring entity furnishes documentation showing otherwise.

8.02.3.3 The Commissioner or his or her designee shall secure and arrange for the recovery and storage of all personal property, equipment, and fixtures purchased or financed in whole or in part with any state or federal funds. Any personal property or equipment contained within the charter school facility shall be presumed to have been purchased or financed in whole or in part with state or federal funds until such time as the sponsoring entity furnishes documentation showing otherwise.

8.02.3.4 At all times, the charter school, the sponsoring entity, and their officers, agents, and employees, must protect the school's assets against theft, misappropriation, and deterioration.

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8.03 Distribution of Property

8.03.1 Upon the dissolution, non-renewal, or revocation of an open-enrollment public charter, the following property shall be sold, unless the Commissioner determines otherwise:

8.03.1.1 Real property or fixtures purchased or financed in whole or in part by the open-enrollment public charter school with state funds;

8.03.1.2 Real property or fixtures purchased or financed in whole or in part by the sponsoring entity with federal grant funds administered by the Division of Elementary and Secondary Education, unless federal law requires some other method of distribution;

8.03.1.3 Personal property encumbered by a recorded security interest or lien and purchased or financed by the open-enrollment public charter school in whole or in part with state funds;

8.03.1.4 Personal property purchased or financed in whole or in part with state funds by an open-enrollment public charter school that never received federal funds and never directly benefited from a federal grant administered by the Division of Elementary and Secondary Education; and

8.03.1.5 Any other personal property not distributed as provided by Sections 8.03.3 and 8.03.4 below.

8.03.2 The state has a perfected priority security interest in the net proceeds from the sale or liquidation of property sold pursuant to Section 8.03.1 above to the extent of the public funds used in the purchase. For the purpose of this section, "net proceeds" means the sale proceeds remaining after the satisfaction of all lien, security, ownership, or other interests that supersede the state's interest.

8.03.3 If the open-enrollment public charter school at any time operated an approved federal child nutrition program, all commodities and foodservice equipment purchased in whole or in part with federal funds or with nutrition

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program revenues shall be sold or transferred as directed by the Division of Elementary and Secondary Education, Child Nutrition Unit.

8.03.4 If the open-enrollment public charter school or its sponsoring entity received a federal grant administered by the Division of Elementary and Secondary Education, then all other personal property, including furniture, equipment and supplies, purchased with state or federal funds may be redistributed to other Arkansas public charter schools or traditional public schools as allowed by federal law.

8.03.4.1 The division shall redistribute the items listed in Section 8.03.4 by notifying all open-enrollment public charter schools of the available items.

8.03.4.2 If there is more than one (1) open-enrollment public charter school that expresses interest in an item, the division shall use a rubric to redistribute the items pursuant to priorities below, and distribute the property to the school with the highest number of points:

8.03.4.2.1 Open-enrollment public charter schools with the same educational model shall receive five (5) points;

8.03.4.2.2 Open-enrollment public charter schools in the same geographic area shall receive five (5) points;

8.03.4.2.3 Open-enrollment public charter schools with a free and reduced lunch percent greater than 70 percent shall receive four (4) points;

8.03.4.2.4 Open-enrollment public charter schools that are in the first two years of operation shall receive three (3) points;

8.03.4.2.5 Open-enrollment public charter schools that have expanded to new grade levels, new locations, or new campuses in the previous two years shall receive three (3) points; and

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8.03.4.2.6 Open-enrollment public charter schools that did not receive start-up funds shall receive two (2) points.

8.04 Distribution of Funds

8.04.1 Upon the dissolution, non-renewal, or revocation of an open-enrollment public charter, the Commissioner or his or her designee shall assert control over any funds deemed the property of the state under Section 8.02 above.

8.04.1.1 In the event of misuse of funds, fraud, or theft following the voluntary non-renewal of a public charter, the Commissioner or his or her designee may assert control over any funds deemed the property of the state immediately, even if the charter is still in operation until the end of the school year.

~~8.04.2 The division shall hold funds received under Ark. Code Ann. § 6-23-105(e) and Section 8.02.2 of these Rules in a separate fund and shall expend the funds only with prior approval of the Commissioner.~~

~~8.04.2.1 If the State Board of Education reverses the revocation, transfer, or assignment, the division shall return any funds remaining in receivership to the public charter school.~~

8.04.2 Immediately upon the State Board's affirmation of a revocation, assignment, or transfer, the open-enrollment public charter school shall transfer all state and federal funds held by the open-enrollment public charter school to the division.

8.04.3 The division shall hold funds received under Ark. Code Ann. § 6-23-105(e) and Section 8.04.2 of these rules in receivership in a separate fund and shall expend the funds only with prior approval of the Commissioner.

~~8.04.3~~ 8.04.4 In order to comply with federal and state law, the Commissioner shall use such funds to satisfy the following obligations of the charter school in the order listed:

~~8.04.3.1~~ 8.04.4.1 Domestic support obligations withheld from an employee's wages in compliance with a court order prior to the effective date of dissolution, non-renewal, or revocation;

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~~8.04.3.2~~ 8.04.4.2 Federal tax liens imposed by the Internal Revenue Code for taxes or payroll tax withholding owed;

~~8.04.3.3~~ 8.04.4.3 Any state tax lien or certificate of indebtedness issued by the Arkansas Department of Finance and Administration for taxes or payroll tax withholding owed;

~~8.04.3.4~~ 8.04.4.4 Any debt owed to the Division of Elementary and Secondary Education, Child Nutrition Unit for penalties or reimbursement of overpayments;

~~8.04.3.5~~ 8.04.4.5 Any debt owed to the Division of Elementary or Secondary Education or other state agency for reimbursement of any other overpayment of federal funds;

~~8.04.3.6~~ 8.04.4.6 Unpaid contributions to the Arkansas Teacher Retirement System accrued prior to the effective date of dissolution, non-renewal, or revocation;

~~8.04.3.7~~ 8.04.4.7 Unpaid contributions to the Employee Benefits Division of the Arkansas Department of Finance & Administration accrued prior to the effective date of dissolution, non-renewal, or revocation; and

~~8.04.3.8~~ 8.04.4.8 Unpaid employee wages accrued prior to the effective date of dissolution, non-renewal, or revocation in accordance with employee contracts and the school's policies in effect as of the beginning of the current school year.

~~8.04.4~~ 8.04.5 A claimant may file a claim for disbursement from the state funds if the claimant is owed by the public charter school.

~~8.04.4.1~~ 8.04.5.1 The claim must be made in writing to the Charter School Office;

~~8.04.4.2~~ 8.04.5.2 The claimant must attach an invoice that describes the nature of the debt owed;

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~~8.04.4.3~~ 8.04.5.3 The claim must be for an allowable expense; and

~~8.04.4.4~~ 8.04.5.4 The claim must be filed within one (1) calendar year from the date of revocation.

~~8.04.4.5~~ 8.04.5.5 Claims received by the division under Section ~~8.04.4~~ 8.04.5 will be paid in the order received, after all obligations under Section ~~8.04.3~~ 8.04.4 have been satisfied, and only if adequate funds remain.

~~8.04.5~~ 8.04.6 The determination of the division concerning the disbursement of the state funds is final and may not be appealed.

~~8.04.6~~ 8.04.7 If funds remain in receivership for which no legitimate, documented claim has been made to the division within one (1) calendar year after the revocation, transfer, or assignment, the remaining funds shall be transferred to the ~~Public School Fund~~:

8.04.7.1 Entity that received the public charter school under a transfer or assignment if the public charter school was transferred or assigned; or

8.04.7.2 In all other instances, the Public School Fund.

8.05 Distribution of Records

8.05.1 The charter school or sponsoring entity must promptly submit all student records to the transfer school, including:

8.05.1.1 Individualized Education Programs (IEPs) and all records regarding special education and supplemental services;

8.05.1.2 Student health / immunization records;

8.05.1.3 Attendance records;

8.05.1.4 Testing materials, including scores, test booklets, etc. required to be maintained by the School; and

8.05.1.5 All other student records.

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8.05.1.6 All end-of-school-year grades and evaluations must be completed and made part of the student records, including any IEP, Committee on Special Education meetings, or progress reports.

8.05.1.7 To the extent that testing scores, etc. are scheduled to arrive after the school closure, arrangements should be made with the testing agent to forward such material to the transfer school.

8.05.2 No later than thirty (30) days after closure or dissolution of the charter, the charter school or sponsoring entity shall send each employee of the charter school:

8.05.2.1 Copies of his or her contracts, evaluations, recommendation letters, and any other proof of employment and/or termination;

8.05.2.2 Documentation of staff development hours; and

8.05.2.3 Notice that employees must keep this documentation for their records as the state will have no way of providing proof of employment after the school is closed.

8.05.3 If the charter school operated an approved federal child nutrition program, all child nutrition records shall be delivered to the Division of Elementary and Secondary Education, Child Nutrition Unit on a schedule established by the Unit.

8.05.4 Any student records remaining in the possession of the charter school or sponsoring entity, or in the possession of any other entity or individual designated by the charter school or sponsoring entity, shall be maintained in a manner sufficient to protect student privacy rights in accordance with the ~~Federal~~ Family Educational Rights and Privacy Act of 1974, as amended.

8.05.5 The sponsoring entity shall maintain all relevant corporate or governance records for at least five (5) years after the effective date of closure, specifically including but not limited to:

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8.05.5.1 All board minutes, policies, and bylaws of the charter school board or governing entity;

8.05.5.2 Bonds, mortgages, loan agreements, and all other financing instruments;

8.05.5.3 Lease agreements;

8.05.5.4 Accounting and bank records;

8.05.5.5 Payroll and tax records as required by federal law;

8.05.5.6 Grant records as specified by 34 C.F.R. § 80.42 or other relevant federal or state law; and

8.05.5.7 Any other document required by law to be maintained.

8.05.6 No later than thirty (30) days after closure or dissolution of the charter, the charter school or sponsoring entity shall make available all financial records requested by the division.

8.05.6.1 In the event of misuse of public funds, fraud, or theft, the charter school or sponsoring entity shall make immediately available all financial records required by the division.

9.00 CHARTER AUTHORIZER

9.01 The designated public charter authorizer has jurisdiction and authority over all public charters issued in this state to take the following action on a proposed or established public charter:

9.01.1 Approve;

9.01.2 Reject;

9.01.3 Renew;

9.01.4 Non-renew;

9.01.5 Place on probation;

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9.01.6 Modify;

9.01.7 Revoke;

9.01.8 Deny;

9.01.9 Transfer; or

9.01.10 Assign.

9.02 The Division shall exercise authority over public charter schools under Title 6, Chapter 23 of the Arkansas Code and these rules through a public charter authorizing panel established within the division.

9.02.1 The Commissioner shall appoint a public charter authorizing panel that may consist of individuals from outside the division as well as professional staff employed at the division to serve at the pleasure of the commissioner.

9.02.2 The commissioner may elect to serve as a member on the charter authorizing panel as the chair.

9.02.3 The public charter authorizing panel is composed of an odd number of members and consists of no less than five (5) members and no more than eleven (11) members.

9.03 The authorizer may waive provisions of Title 6 of the Arkansas Code or State Board of Education rules as allowed by law for public charters.

9.04 The authorizer shall conduct all hearings on public charter school matters as required by law, rule, and process and make final determinations as allowed by law.

9.04.1 A hearing under Title 6, Chapter 23 of the Arkansas Code and these rules conducted by the authorizer shall be an open meeting under the Freedom of Information Act of 1967, Ark. Code Ann. § 25-19-106.

9.04.2 For the purposes of Ark. Code Ann. § 25-19-106, the members of the public charter authorizing panel shall be considered a governing body only in regards to actions specifically authorized by Title 6, Chapter 23, Subchapter 7 of the Arkansas Code and these rules.

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9.04.3 All decisions of the panel shall be made by a majority vote of the quorum.

9.04.4 A decision of the authorizer is final except as provided under Ark. Code Ann. § 6-23-703 and Section 10.00 of these rules.

9.04.5 The Arkansas Administrative Procedure Act, Ark. Code Ann. § 25-15-201 et seq. shall not apply to a hearing concerning a public charter school.

9.05 The Division shall be the primary authorizer of public charters except as provided under Ark. Code Ann. § 6-23-703 and Section 10.00 of these rules.

9.06 The Division shall notify in writing the State Board, charter applicant, public charter school, and affected school districts, if any, of final decisions made by the Division no less than fourteen (14) calendar days before the next regularly scheduled State Board meeting after the final decision is made by the Division.

9.06.1 A charter applicant, public charter school, and affected school district, if any, may submit in writing a request that the State Board review the final decision of the authorizer under Ark. Code Ann. § 6-23-703 and Section 10.00 of these rules.

9.06.2 The written request submitted under Section 9.06.1 of these rules shall state the specific reasons supporting a review by the State Board.

9.06.3 The decision of whether to review a final decision of the authorizer is discretionary by the State Board and the provisions of this section and Ark. Code Ann. § 6-23-703 do not grant any right of appeal to a charter applicant, public charter school, or affected school district.

10.00 STATE BOARD OF EDUCATION OPTIONAL REVIEW

10.01 If a charter applicant, public charter school, or affected districts submits a request that the State Board review the final decision of the authorizer under Section 9.06.1 of these rules, the State Board shall:

10.01.1 Allow the party requesting review three (3) minutes to present the reasons for review.

10.01.2 Allow any parties opposed to the State Board review three (3) minutes to present the reasons to deny review.

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10.01.3 Allow the party requesting review one (1) minute to offer any closing remarks.

10.01.4 Allow additional time at the discretion of the Chair.

10.02 On a motion approved by a majority vote, the State Board may exercise a right of review of charter determination made by the charter authorizer at the next regularly scheduled State Board meeting after receiving notice provided under Ark. Code Ann. § 6-23-702(b) and Section 9.06 of these rules.

10.03 If the State Board votes to review a final decision made by the charter authorizer, the State Board shall:

10.03.1 State the specific additional information the State Board requires from the Division, public charter school, public charter school applicant, or affected school district.

10.03.2 Conduct a full hearing regarding a final decision made by the authorizer under Ark. Code Ann. § 6-23-701(a) and Section 9.04 of these Rules; and

10.03.3 Hold the hearing at the earlier of:

10.03.3.1 The next regularly scheduled State Board meeting following the State Board meeting during which the State Board voted to authorize a review; or

10.03.3.2 A special board meeting called by the State Board.

10.04 At the conclusion of the hearing, the State Board may issue a final decision by State Board vote.

10.04.1 The State Board may decide by a majority vote of the quorum to:

10.04.1.1 Affirm the decision of the authorizer;

10.04.1.2 Take other lawful action on the public charter;

10.04.1.3 Request additional information from the Division, public charter school, public charter school applicant, or affected school district, if needed.

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10.04.1.4 If the State Board requests additional information under Ark. Code Ann. § 6-23-703(c)(2)(C)(i) or Section 10.03.1~~.3~~ of these Rules, the State Board shall hold a subsequent hearing at the earlier of the next regularly scheduled State Board meeting or a special board meeting called by the State Board.

10.04.2 A decision made by the State Board is final with no right of appeal.

11.00 RULES APPLICABLE TO ADULT EDUCATION CHARTER SCHOOLS

11.01 Application for an Adult Education Charter School

11.01.1 Pursuant to Title 6, Chapter 23 of the Arkansas Code and these rules, an eligible entity may apply to the authorizer to grant adult education charter school status for an adult education program that offers a curriculum that culminates in:

11.01.1.1 A high school diploma; and

11.01.1.2 An industry certification.

11.01.2 An adult education charter school shall be recognized by the State Board of Education as an open-enrollment public charter school. However, an adult education charter school is not eligible for state funding intended for elementary and secondary districts, schools, or programs, including but not limited to, state foundation and categorical funding.

11.01.3 An adult education charter school does not count toward the cap for open-enrollment public charter schools under § 6-23-304(c).

11.01.4 The authorizer shall adopt an application form, schedule, and a procedure that must be used to apply for an adult education charter school. The State Board shall adopt any applications, forms, schedules and procedures that are required to be promulgated through the Administrative Procedure Act.

11.01.5 The authorizer shall adopt, in conjunction with the application form adopted under section 11.01.4 of these Rules, a scoring rubric that shall constitute criteria to inform the authorizer's approval of a program for which an adult education charter may be granted. The State Board shall

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adopt any rubric that is required to be promulgated through the Administrative Procedure Act.

11.01.6 The application to the authorizer for an adult education charter school shall be made in accordance with a schedule approved by the authorizer. The State Board shall adopt any schedule that is required to be promulgated through the Administrative Procedure Act.

11.01.7 The application form must provide space for including all information required under Title 6, Chapter 23 and these rules to be contained in the charter.

11.01.8 A nonprofit entity's application for an adult education charter school shall include, without limitation a:

11.01.8.1 History of the nonprofit entity's success in providing education services, including industry certifications and job placement services, to adults eighteen (18) years of age and older whose educational and training opportunities have been limited by educational disadvantages, disabilities, homelessness, criminal history, or similar circumstances;

11.01.8.2 Pledge to commit at least one million dollars ($1,000,000) to the adult education charter school, if approved, with up to twenty-five percent (25%) of the commitment allowed to be in-kind;

11.01.8.2.1 A nonprofit entity that is opening an additional adult education public charter school under Ark. Code Ann. § 6-23-1001(b) is not required to commit one million dollars ($1,000,000) for the additional adult education public charter school if it has already pledged to commit at least one million dollars ($1,000,000) to an adult education charter school under Ark. Code Ann. § 6-23-1001(b)(2)(A).

11.01.8.3 Description of any partnership with a state-supported two year institution of higher education, if anticipated;

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11.01.8.4 Description of testimony from a public hearing in the community where the adult education charter school is planned;

11.01.8.5 Copy of the notice of the public hearing that documents that the notice was published, at least three (3) weeks before the date of the public hearing, in a newspaper having general circulation in the community where the adult education charter school is planned;

11.01.8.6 Comprehensive plan of how the adult education charter school will meet the industry needs for a sufficiently trained workforce in the state;

11.01.8.7 Strategy for engaging the community, including business leaders, in carrying out the goals and objectives of the adult education charter school;

11.01.8.8 Description of the proposed performance criteria that will be used during the initial five-year period of the charter to measure the progress of the adult education charter school in meeting the industry needs for a sufficiently trained workforce in the state;

11.01.8.9 Detailed budget and governance plan for the operation of the adult education charter school; and

11.01.8.10 List of any specific state laws or rules of the State Board of Education from which the adult education public charter wishes to be exempt with an explanation of why the exemption is needed.

11.02 Authorization for an Adult Education Charter: The authorizer shall review an application for an adult education charter school and may approve an application that:

11.02.1 Provides an acceptable plan for meeting the industry needs for a sufficiently trained workforce in the state;

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11.02.2 Includes a set of performance criteria objectives for the terms of the charter and the means for measuring the performance criteria objectives on a yearly basis;

11.02.3 Includes a comprehensive strategy for engaging the community, including without limitation business leaders, in the process of meeting the goals and objectives of the adult education public charter;

11.02.4 Includes an agreement to provide an annual report to the community that indicates the progress made by the adult education public charter school in meeting the performance criteria objectives during the previous year; and

11.02.5 Includes an appropriate budget and governance plan.

11.03 Adult Education Charter School Licenses

11.03.1 A charter applicant that receives an approved adult education charter may petition the authorizer for additional licenses to establish an adult education charter school in any of the various congressional districts in Arkansas if the applicant meets the following conditions:

11.03.1.1 The approved adult education charter applicant has demonstrated academic success as defined by the State Board for all public schools;

11.03.1.2 The approved adult education charter applicant has not:

11.03.1.2.1 Been subject to any disciplinary action by the authorizer;

11.03.1.2.2 Been classified as in ~~academic~~ <u>need of Level 5 – Intensive support</u> or fiscal distress;

11.03.1.2.3 Had its adult education charter placed on charter school probation or suspended or revoked under Ark. Code Ann. § 6-23-105 or Section 4.03 of these rules; and

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11.03.1.2.4 The authorizer determines in writing by a majority of a quorum present that the adult education charter applicant has generally established the educational program results and criteria set forth in Section 10.03 of these rules.

11.04 Resubmission of Adult Education Charter School Applications

11.04.1 The authorizer may allow an applicant to resubmit an application for an adult education public charter school if the original application was, in the opinion of the authorizer deficient in one (1) or more respects.

11.04.2 The Division of Elementary and Secondary Education may provide technical assistance to the applicant for an adult education public charter school in the creation or modification of its application.

11.05 Enrollment in an Adult Education Charter School

11.05.1 An approved adult education charter school shall have an enrollment cap of no more than three hundred fifty (350) students.

11.05.2 A person who is at least nineteen (19) years of age may enroll in an adult education charter school if the person has:

11.05.2.1 Not earned a high school diploma;

11.05.2.2 Failed to complete the requirements for high school graduation.

11.06 Funding for an Adult Education Charter School

11.06.1 Funding for an adult education charter school shall not be provided through the Public School Fund.

11.06.2 Funding for an adult education charter school may come from public or private sources, including from the eligible entity that operates an adult education charter school.

11.06.3 An adult education charter school is not eligible to receive any state funds intended for elementary and secondary programs.

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11.07 Renewal of an Adult Education Charter: The authorizer may renew the adult education charter on a one-year or multiyear basis.

11.08 Status Report: The Division of Elementary and Secondary Education shall report to the Senate Committee on Education and the House Committee on Education by December 1 each year concerning:

11.08.1 Evaluations of any adult education charter schools operating under this subchapter in the state, including the impact on meeting industry needs and addressing the workforce needs in the state; and

11.08.2 Recommendations regarding the abolition, expansion, or modifications of the laws pertaining to adult education charters.

11.09 Authority under a Charter for Adult Education Charter Schools

11.09.1 An adult education charter school:

11.09.1.1 Shall be governed by an eligible entity that is fiscally accountable under the governing structure as described by the charter;

11.09.1.2 Shall provide instruction to adults as provided by the charter;

11.09.1.3 Shall retain the authority to operate under the charter contingent on satisfactory student performance as provided by the charter in accordance with Title 6, Chapter 23 of the Arkansas Code and these rules;

11.09.1.4 Shall have no authority to impose taxes;

11.09.1.5 Shall not charge tuition or fees that would not be allowable charges in the public school districts; and

11.09.1.6 Shall not be religious in its operations or programmatic offerings.

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11.09.2 An adult education charter school is subject to any prohibition, restriction, or requirement imposed by Title 6 of the Arkansas Code and any rule and regulation promulgated by the State Board under Title 6 of the Arkansas Code relating to:

11.09.2.1 Monitoring compliance with Title 6 of the Arkansas Code, as determined by the Commissioner;

11.09.2.2 Public school accountability under Title 6 of the Arkansas Code;

11.09.2.3 High school graduation requirements as established by the State Board;

11.09.2.4 Special education programs as provided by Title 6 of the Arkansas Code;

11.09.2.5 Conducting criminal background checks for employees as provided by Title 6 of the Arkansas Code;

11.09.2.6 Health and safety codes as established by the State Board and local governmental entities; and

11.09.2.7 Ethical guidelines and prohibitions as established by Ark. Code Ann. § 6-24-101 et seq., and any other controlling state or federal law regarding ethics or conflicts of interest.

11.10 Enrollment Numbers and Deadline: Adult education charter schools shall keep records of attendance in accordance with the law and submit quarterly attendance reports to the Division of Elementary and Secondary Education.

11.11 Annual Audit of Adult Education Charter School Required

11.11.1 An adult education charter school shall prepare an annual certified audit of the financial condition and transactions of the adult education charter school as of June 30 each year in accordance with auditing standards generally accepted in the United States and Government Auditing Standards issued by the Comptroller General of the United States, and containing any other data as determined by the State Board for all public schools.

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11.12 Monthly Reports: An adult education charter school in its initial school year of operation shall provide monthly reports on its enrollment status and compliance with its approved budget for the current school year to the Division of Elementary and Secondary Education.

11.13 Division of Elementary and Secondary Education Review: The Division of Elementary and Secondary Education shall:

11.13.1 Conduct an end-of-semester review of each adult education charter school that is in its initial school year of operation at the end of the first semester and at the end of the school year; and

11.13.2 Report to the State Board and the Commissioner on the adult education charter school's:

11.13.2.1 Overall financial condition; and

11.13.2.2 Overall condition of student enrollment.

11.14 Use of Funding by Adult Education Charter Schools

11.14.1 No indebtedness of any kind incurred or created by the adult education charter school shall constitute an indebtedness of the state or its political subdivisions, and no indebtedness of the adult education charter school shall involve or be secured by the faith, credit, or taxing power of the state or its political subdivisions.

11.14.2 Every contract or lease into which an adult education charter school enters shall include the wording of Section 11.14.1 of these rules.

11.15 Charter School Facilities: An adult education charter school shall not commence operations with students in any new or renovated facility unless the school has obtained for the new construction or renovation:

11.15.1 A certificate of occupancy issued by a local code official approved by the state fire marshal;

11.15.2 A certificate of occupancy or other approval of the state fire marshal; or

11.15.3 A certificate of substantial completion issued by a licensed architect.

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11.16 Authorizer Hearing Procedures Related to Adult Charter Schools (Application, Renewal, or Request for Charter Amendment)

11.16.1 All persons, with the exception of the attorneys representing the parties, who plan to provide testimony during the hearing must be sworn by the Chair of the body conducting the hearing.

11.16.2 The adult education charter school or applicant shall have twenty (20) minutes to present its case to the authorizer for approval of the proposed adult education charter school application, renewal, or request. The Chair of the authorizing body may grant additional time, if necessary.

11.16.3 Parties opposed to the adult education charter school application, renewal, or request, if any, shall have twenty (20) minutes to present its case to the authorizer for disapproval of the proposed adult education charter school application, renewal, or request. The Chair of the authorizing body may grant additional time, if necessary.

11.16.3.1 Any party in opposition that wishes to present or participate at the hearing must notify the division's Charter School Office and the school or applicant in writing no later than ten (10) business days prior to the hearing.

11.16.3.2 If a party in opposition intends to use a presentation, handouts, or any other document, it must provide copies to the Charter School Office and to the school or applicant no later than ten (10) business days prior to the hearing.

11.16.3.3 A party in opposition that fails to notify the Charter School Office no later than ten (10) business days prior to the hearing may only present or participate at the hearing with the permission of the authorizer.

11.16.4 The adult education charter school or applicant shall have five (5) minutes to respond to any arguments in opposition to the adult education charter school application, renewal, or request. The Chair of the authorizing body may grant additional time, if necessary.

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11.16.5 The authorizer will follow the presentation with discussion of the adult education charter school application, renewal, or request, and questions, if any, to the adult education charter school or applicant, opposing parties, or both.

11.16.6 The authorizer may issue a final decision at the hearing or take the matter under advisement until a future scheduled meeting.

11.16.7 The authorizer may defer the vote to approve or disapprove a charter application, renewal, or request in order to allow a public charter school or applicant to make modifications or receive technical assistance to correct deficiencies in the application, renewal, or request.

11.16.8 During the roll call vote on each adult education charter initial application, if a particular member of the authorizing body votes against the initial application, that member should state his or her reasons for disapproval.

Note: Additional requirements pertaining to hearings involving the Division of Elementary and Secondary Education as authorizer may be found in Section 9.00 of these Rules. Additional requirements pertaining to hearings involving the State Board of Education as authorizer may be found in Section 10.00 of these Rules.

11.17 Authorizer Hearing Procedures Related to Adult Education Charter Schools (Modification, Probation or Revocation of Charter)

11.17.1 Not later than twenty (20) days prior to the authorizer meeting at which the matter of modification, probation or revocation will be considered, the Division of Elementary and Secondary Education shall provide written notice of the reason(s) for the proposed action, as well as of the time and location of such hearing, to the adult education charter school.

11.17.2 All persons, with the exception of the attorneys representing the parties, who plan to provide testimony during the hearing must be sworn by the Chair of the body conducting the hearing.

11.17.3 The adult education charter school shall have twenty (20) minutes to present its case to the authorizer regarding the proposed modification, probation, or revocation of the adult charter school charter. The Chair of the authorizing body may grant additional time, if necessary.

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11.17.4 The authorizer will follow the presentation with discussion of the matter and questions, if any, to representatives from the Division of Elementary and Secondary Education, the adult education charter school, or both.

11.17.5 The authorizer may issue a final decision at the hearing or take the matter under advisement until a future scheduled meeting.

Note: Additional requirements pertaining to hearings involving the Division of Elementary and Secondary Education as authorizer may be found in Section 9.00 of these Rules. Additional requirements pertaining to hearings involving the State Board of Education as authorizer may be found in Section 10.00 of these Rules.

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DESE RULES GOVERNING PUBLIC CHARTER SCHOOLS

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

Commenter Name: Lucas Harder, Arkansas School Boards Association (1/20/22)

Comment (1): 3.12: To clarify the new language, I would recommend amending this to read as "Debt does not include when charters enter" instead of "An exception is that charters may enter".

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

Comment (2): 3.14.1: There is a space between the period and fourteen.
3.14.2: There is a space between the period and fourteen.
3.14.3: There is a space between the period and fourteen.
3.14.4: There is a space between the period and fourteen.

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

Comment (3): 3.20.3: While I recognize that this language matches the statutory definition from 6-23-103, I would recommend updating to recognize the passage of the Every Student Succeeds Act in 2015 to ensure that it's not out of alignment with Federal law.

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

Comment (4): 3.20.4: While I recognize that this language matches the statutory definition from 6-23-103, I would recommend updating to recognize the passage of the Every Student Succeeds Act in 2015 to ensure that it's not out of alignment with Federal law.

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

Comment (5): 3.24: The "4" here is unnecessarily struck.

Division Response: Comment considered. **No change made.**

Comment (6): 4.03.1.3: The "this" here is unnecessary.

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

Comment (7): 4.06.2.2: There is a repeat of "the" at "under the the Arkansas".

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

Comment (8): 5.01.3.8.1: There is an unnecessary period after the "1".

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

Comment (9): 5.06.7: The note here references Sections 8 and 9 of the Rules and should actually reference Sections 9 and 10 of the Rules.

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

Comment (10): 5.08.2: The note here references Sections 8 and 9 of the Rules and should actually reference Sections 9 and 10 of the Rules.

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

Comment (11): 6.03.2: I believe that this should read "open-enrollment" instead of "conversion".

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

Comment (12): 6.04.3.1: I would recommend either removing the "an" from in front of "open-enrollment charter schools" or removing the final "s" from "open-enrollment charter schools" to fix a grammar issue.

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

Comment (13): 6.11.3.1: There is a space between the period and the "3" here.
6.11.3.1.1: There is a space between the period and the "3" here.
6.11.3.1.2: There is a space between the period and the "3" here.
6.11.3.2: There is a space between the period and the "3" here.

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

Comment (14): 6.17: There are currently two 6.17s. I believe that the second one should be 6.17.11.

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

Comment (15): 6.17.1: There are two 6.17.1 in the document. I believe that this was supposed to be 6.17.11.1. There is also a space between the period and the "17".

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

Comment (16): 6.17.2: There are two 6.17.2 here. I believe that this one is supposed to be 6.17.11.2. Also, there is a space between the period and the "17".

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

Comment (17): 6.20.1: There is a space between the period and "20".
6.20.2: There is a space between the period and "20".
6.20.3: There is a space between the period and "20".
6.20.4: There is a space between the period and "20".
6.21.1: There is a space between the period and "21".
6.21.2: There is a space between the period and "21".

6.21.3: There is a space between the period and "21".

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

Comment (18): 6.22.8: The note here references Sections 8 and 9 of the Rules and should actually reference Sections 9 and 10 of the Rules.

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

Comment (19): 6.23.5: The note here references Sections 8 and 9 of the Rules and should actually reference Sections 9 and 10 of the Rules.

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

Comment (20):

6.26.1.1:	There is a space between the period and "26" here.
6.26.1.2:	There is a space between the period and "26" here.
6.26.1.3:	There is a space between the period and "26" here.
6.26.1.4:	There is a space between the period and "26" here.
6.26.1.4.1:	There is a space between the period and "26" here.
6.26.1.4.2:	There is a space between the period and "26" here.
6.26.1.4:.3	There is a space between the period and "26" here.
6.26.2:	There is a space between the period and "26" here.
6.26.3:	There is a space between the period and "26" here.
6.26.3.1:	There is a space between the period and "26" here.
6.26.4:	There is a space between the period and "26" here.

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

Comment (21): 8.05.4: This should actually read "Family Educational Rights and Privacy Act" instead of "Federal".

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

Comment (22): 10.04.1.4: As there does not appear to be a Section 10.03.1.3, I believe that this is actually intended to reference Section 10.03.1.

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

Comment (23): 11.01.1: There appears to be a colon missing from the end of this section.

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

Comment (24): 11.03.1.2.2: This section continues to reference "academic distress", which no longer exists as a category under law or rule.

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