

QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS  
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM  
COMMITTEE

DEPARTMENT/AGENCY Education  
DIVISION Accountability  
DIVISION DIRECTOR Dr. Charity Smith  
CONTACT PERSON Ron Tolson  
ADDRESS #4 State Capitol Mall, Room 107B  
PHONE NO. 501-682-4342 FAX NO. 682-4898

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after  Short Title of this Rule  below.
- D. Submit two (2) copies of this questionnaire attached to the front of two (2) copies of your proposed rule and mail or deliver to:

Donna K. Davis  
Subcommittee on Administrative Rules and Regulations  
Arkansas Legislative Council  
Bureau of Legislative Research  
Room 315, State Capitol  
Little Rock, AR 72201

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- 1. What is the short title of this rule? Emergency Rules and Regulations for Parental Notification Of an Assignment of a Non-Certified Teacher to Teach for More Than Thirty (30) Consecutive Days.
- 2. What is the subject of the proposed rule? Requirements for school districts to notify the parents when their children are being taught by a non-certified teacher for more than thirty consecutive days during a school year and for requesting waivers.
- 3. Is this rule required to comply with federal statute or regulations?  
Yes \_\_\_\_\_ No X \_\_\_\_\_  
  
If yes, please provide the federal regulation and/or statute citation.
- 4. Was this rule filed under the emergency provisions of the Administrative Procedures Act? Yes \_\_\_\_\_ X \_\_\_\_\_ No \_\_\_\_\_  
If yes, what is the effective date of the emergency rule? September 10, 2001

When does the emergency rule expire? January 14, 2002

Will this emergency rule be promulgated under the regular provisions of the Administrative Procedure Act? Yes  No

5. Is this a new rule? Yes  No

Does this repeal an existing rule? Yes  No   
If yes, please provide a copy of the repealed rule.

Is this an amendment to an existing rule? If yes, please attach a markup showing the changes in the existing rule and a summary of the substantive changes.

6. What state law grants the authority for this proposed rule? If codified, please give Arkansas Code citation. 6-11-105

7. What is the purpose of this proposed rule? Why is it necessary?

These emergency rules and regulations are needed to comply with the Requirements of Act 1623 of 2001.

8. Will a public hearing be held on this proposed rule? Yes  No   
If yes, please give the date, time, and place of the public hearing.

A date and time has not been set yet. This will be done when we are ready to These emergency rules and regs to permanent rules and regs.

9. When does the public comment period expire? To be decided.

10. What is the proposed effective date of this proposed rule? To be decided.

11. Do you expect this rule to be controversial? Yes  No   
If yes, please explain.

12. Please give the names of persons, groups, or organizations which you expect to comment on these rules. Please provide their position (for or against) if known.

We expect to hear comments regarding these rules and regs from public school Administrators.

PLEASE ANSWER ALL QUESTIONS COMPLETELY

July 28, 1995

DEPARTMENT/ AGENCY Education\_\_\_\_\_
DIVISION Accountability\_\_\_\_\_
PERSON COMPLETING THIS STATEMENT Ron Tolson\_\_\_\_\_
TELEPHONE NO. 682-4342\_\_\_\_\_ FAX NO. 682-4898\_\_\_\_\_

FINANCIAL IMPACT STATEMENT

To comply with Act 1104 of 1995, please complete the following Financial Impact Statement and file with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Rules and Regulations Governing the Adding of Additional Areas of Licensure and the Probationary Route to Licensure

- 1. Does this proposed, amended, or repealed rule or regulation have a financial Impact? Yes No X
2. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain. N/A
3. If the purpose of this rule or regulation is to implement a federal rule or regulation, please give the incremental cost for implementing the regulation.

Table with 2 columns: 2001-02 Fiscal Year, 2002-03 Fiscal Year. Rows: General Revenue, Federal Funds, Cash Funds, Special Revenue, Other, Total. All values are N/A.

What is the total estimated cost by fiscal year to any party subject to the Proposed, amended, or repealed rule or regulation?

Table with 2 columns: 2001-02 Fiscal Year, 2002-03 Fiscal Year. Both cells contain the word 'None'.

- 5. What is the total estimated cost by fiscal year to the agency to implement this regulation?

Table with 2 columns: 2001-02 Fiscal Year, 2002-03 Fiscal Year. Both cells contain the word 'None'.

DEPARTMENT OF EDUCATION  
FISCAL IMPACT STATEMENT  
OF PROPOSED REGULATION  
(In compliance with Acts 884 and 1253 of 1995)

Regulation Title: Emergency Rules and Regulations Governing Parental Notification Of an Assignment of a Non-Certified Teacher to Teach a C lass For More Than Thirty Consecutive Days During a School Year.

Summary Description of Regulatory Proposal: These rules and regulations will serve as guidelines for Parental Notification and for requesting waivers for teachers teaching out of field for more than thirty consecutive days.

Cite Statutory Authority for this Regulatory Proposal: 6-11-105

- I. Fiscal Impact on the Department: (include whether impacts are non-recurring or recurring)
  - A. Resources Required - Personnel, equipment, office space.  
None.
  - B. Time Required for Implementation.  
None
  - C. Procedural Changes.  
None
  - D. Other.  
None
- II. Fiscal Impact on Local School District or Others? (Include whether impacts are non-recurring or recurring)
  - A. Resources Required - Personnel, equipment, office space.  
Recurring
  - B. Time Required for Implementation.  
Recurring
  - C. Procedural Changes.  
Recurring
  - D. Other.  
Recurring
- III. Additional Comments.

This will require additional time from support staff and professional staff as well as additional money for postage and office supplies.

Prepared by: (Name) Ron Tolson  
(Title) Coordinator, Professional Licensure  
(Date) September 17, 2001

**PROPOSED EMERGENCY RULES AND REGULATIONS  
GOVERNING PARENTAL NOTIFICATION OF AN ASSIGNMENT  
OF A NON-CERTIFIED TEACHER TO TEACH A  
CLASS FOR MORE THAN THIRTY (30) CONSECUTIVE DAYS  
AND FOR GRANTING WAIVERS**

1.00 Regulatory Authority

1.01 These emergency rules and regulations shall be known as the Arkansas Department of Education (ADE) Rules and Regulations Governing Parental Notification of an Assignment of a Non-Certified Teacher to Teach a Class for More Than Thirty (30) Consecutive School Days during a School Year and for Granting Waivers.

1.02.1 These regulations are enacted pursuant to the authority of the State Board of Education under Act 1623 of 2001 and Ark. Code Ann. § 6-11-105.

2.00 PURPOSE OF REGULATION

2.01 The purpose of these regulations is to establish the procedure whereby a school district may obtain a waiver from the Arkansas Department of Education for teachers who will be teaching outside of the grade level or subject area they are certified to teach for more than thirty (30) consecutive school days in the same class during a school year.

3.00 DEFINITIONS

“For the Purpose of these Rules and Regulations.”

3.01 **Not certified to teach the grade level** is defined as any teacher assigned to a grade level for which the teacher does not have the appropriate license or approval for that grade level.

3.02 **Not Certified to teach the subject matter** is defined as any teacher assigned to teach a subject for which the teacher does not have the appropriate license or approval to teach that subject.

3.03 **Certified teacher** is defined as any teacher who holds a current standard or provisional teaching license issued by the Arkansas Department of Education.

3.04 **Undue Hardship** is defined as the inability of a school district to employ a qualified teacher who is certified at the grade level or for the subject area assigned.

4.00 EMPLOYMENT OF TEACHERS WHO ARE NOT CERTIFIED TO TEACH THE GRADE LEVEL OR SUBJECT MATTER OF THE CLASS ASSIGNED

- 4.01 School districts shall aggressively seek to employ teachers who are certified for the grade level and subject matter assigned.
- 4.02 When a school district cannot employ a qualified teacher certified at the grade level or for the subject being assigned, the school district shall actively recruit a certified teacher who will work towards getting certified for the grade level assigned or for the specific subject they are assigned to teach.
- 4.03 The certification requirements of Act 1623 of 2001 shall not apply to non-degreed vocational-technical teachers and those persons approved by the Department of Education to teach the grade level or subject matter of the class in the Department of Education's distance learning program.
- 4.04 Teachers with letters of provisional eligibility (six-month or one-year) and teachers presenting other letters verifying their eligibility for a provisional or standard certificate that are employed by a school district will be considered certified teachers and will not require a waiver as long as they are teaching at the grade level or the specific subject for which they are licensed.

5.00 APPROVAL PROCEDURES AND REPORTING OF WAIVERS

- 5.01 Superintendents may apply for a waiver from the Arkansas Department of Education if the requirement imposes an undue hardship on the school district.
- 5.02 Written letters of application for waivers shall be submitted to the Assistant Director of Accountability as soon as an undue hardship is determined by the superintendent. All letters of application for waivers shall be reviewed by the Arkansas Department of Education. The application letter shall include:
- A. A justification for the waiver. When a waiver is requested for more than one teacher, all teachers can be listed under the justification for the waiver without a separate letter for each teacher.
- B. Documentation that a qualified teacher certified at the grade level to be assigned or certified for the subject to be assigned could not be employed.
- C. The length of time the teacher(s) will be teaching out of their grade level or out of their subject area.

- D. Steps the school district is taking to correct situations where teachers are teaching out of their grade level or out of their subject area.
  - E. Any school district that obtains a waiver shall send written notice of the assignment of a non-certified teacher to the parent or guardian of each student in that classroom no later than the thirty (30) school days after the date of the assignment.
- 5.03 Upon approval of a waiver request, the Arkansas Department of Education shall issue a letter of waiver to the school district in care of the superintendent of the school district.
- 5.04 The final decision regarding the granting of the waiver shall rest with the Arkansas Department of Education.

6.00 EFFECTIVE DATES

- 6.01 These emergency rules and regulations shall go into effect on September 10, 2001.
- 6.02 These emergency rules and regulations shall expire as of January 14, 2002.

7.00 EMERGENCY CLAUSE

- 7.01 Whereas, there are no rules and regulations for the implementation of Act 1623 of 2001, and whereas, procedures for implementing this act are necessary to guide the public school districts of Arkansas in the implementation of this act, the Arkansas State Board of Education and the Arkansas Department of Education promulgate these Emergency Rules and Regulations pursuant to Ark. Code Ann. § 25-15-204 and the State Board of Education hereby determines that imminent peril to many of the school districts will exist if school districts are not allowed to request a “hardship” waiver to the certification requirements of Act 1623 of 2001.