

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

DEPARTMENT/AGENCY Education  
DIVISION Director's Office, Legal Services  
DIVISION DIRECTOR Woodrow Cummins  
CONTACT PERSON Scott Smith  
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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 & financial impact statement attached to the front of two (2) copies of your proposed rule and required documents. 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? ***Rules and Regulations Governing the Guidelines, Procedures and Enforcement of the Arkansas Public School Choice Act***
  
- 2. What is the subject of the proposed rule? ***To establish the guidelines, procedures and enforcement policies for public school districts that choose to participate in school choice.***
  
- 3. Is this rule required to comply with federal statute or regulations? Yes \_\_\_\_\_ No XX \_\_\_\_\_  
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 \_\_\_\_\_ No XX \_\_\_\_\_  
If yes, what is the effective date of the emergency rule?  
  
When does the emergency rule expire?  
  
Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes \_\_\_\_\_ No \_\_\_\_\_

5. Is this a new rule? Yes  No  If yes, please provide a brief summary explaining the regulation. **Prior to Act 1788 of 2001, the Department was granted the option on promulgating rules and regulations governing Ark. Code Ann. § 6-18-206. However, Act 1788 of 2001 requires the Department to promulgate rules and regulations governing Ark. Code Ann. § 6-18-206.**

Does this repeal an existing rule? Yes  No  If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule? Yes  No  If yes, please attach a markup showing the changes in the existing rule and a summary of the substantive changes. **NOTE: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law grants the authority for this proposed rule. If codified, please give Arkansas Code citation. **Ark. Code Ann. § 6-18-206 & 6-11-105**
7. What is the purpose of this proposed rule? Why is it necessary? **To establish the guidelines, procedures and enforcement issues for school districts who choose to participate in school choice.**
8. Will a public hearing be held on this proposed rule? Yes  No   
If yes, please complete the following:
- Date: **July 16, 2002**  
Time: **10:30 a.m.**  
Place: **Auditorium, Arch Ford Education Building**
9. When does the public comment period expire for permanent promulgation? (Must provide a date.) **July 19, 2002**
10. What is the proposed effective date of this proposed rule? (Must provide a date.) **September 2002**
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 that you expect to comment on these rules. Please provide their position (for or against) if known.

**Possibly school superintendents or Ark. School Boards Assc.**

FINANCIAL IMPACT STATEMENT

DEPARTMENT Education  
DIVISION Director's Office, Legal Services  
PERSON COMPLETING THIS STATEMENT Scott Smith  
TELEPHONE NO. 682-4227 FAX NO. 682-4249 EMAIL dssmith@arkedu.k12.ar.us

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

SHORT TITLE OF THIS RULE ***Rules and Regulations Governing the Guidelines, Procedures and Enforcement of the Arkansas Public School Choice Act***

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1. Does this proposed, amended, or repealed rule or regulation have a financial impact?    Yes \_\_\_\_\_    No XX \_\_\_\_\_
  
2. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain.
  
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. Please indicate if the cost provided is the cost of the program.

**Current Fiscal Year**

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_  
  
Total 0 \_\_\_\_\_

**Next Fiscal Year**

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_  
  
Total 0 \_\_\_\_\_

4. What is the total estimated cost by fiscal year to any party subject to the proposed, amended, or repealed rule or regulation? Identify the party subject to the proposed regulation and explain how they are affected.

**Current Fiscal Year**

\$ 0 \_\_\_\_\_

**Next Fiscal Year**

\$ 0 \_\_\_\_\_

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

**Current Fiscal Year**

\$ 0 \_\_\_\_\_

**Next Fiscal Year**

\$ 0 \_\_\_\_\_

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

Regulation Title: ***Rules and Regulations Governing the Guidelines, Procedures and Enforcement of the Arkansas Public School Choice Act***

Summary Description of Regulatory Proposal: ***Establishes the guidelines & procedures for schools participating in the Public School Choice Program***

Cite Statutory Authority for this Regulatory Proposal: ***Ark. Code Ann. § 6-18-206 & 6-11-105***

- I. Fiscal Impact on the Department: (include whether impacts are non-recurring or recurring)
  - A. Resources Required - Personnel, equipment, office space.
  - B. Time Required for Implementation.
  - C. Procedural Changes.
  - D. Other.
- II. Fiscal Impact on Local School District or Others? (Include whether impacts are non-recurring or recurring)
  - A. Resources Required - Personnel, equipment, office space.
  - B. Time Required for Implementation.
  - C. Procedural Changes.
  - D. Other.
- III. Additional Comments.

Prepared by: (Name) ***Scott Smith***  
(Title) ***Legal Counsel***  
(Date) ***June 12, 2002***

ARKANSAS DEPARTMENT OF EDUCATION  
PROPOSED RULES AND REGULATIONS GOVERNING THE GUIDELINES,  
PROCEDURES AND ENFORCEMENT OF THE  
ARKANSAS PUBLIC SCHOOL CHOICE ACT

1.00 PURPOSE

- 1.01 These rules and regulations shall be known as the Arkansas Department of Education Rules and Regulations Governing the Guidelines, Procedures and Enforcement of the Arkansas Public School Choice Act.

2.00 AUTHORITY

- 2.01 The Arkansas State Board of Education’s authority for promulgating these rules and regulations is pursuant to Ark. Code Ann. § 6-11-105 and § 6-18-206.

3.00 DEFINITIONS

- 3.01 Student – for purposes of this rule and regulation means any person legally enrolled or entitled to be enrolled in a public school district in Arkansas.
- 3.02 Resident district – for purposes of this rule and regulation means the public school district where a student is considered to reside pursuant to Ark. Code Ann. § 6-18-202.
- 3.03 Non-resident district – for purposes of this rule and regulations means the public school district a student last made legal application to attend pursuant to the Arkansas Public School Choice Act for the current school year.
- 3.04 Application – for purposes of this rule and regulation means a request submitted to a non-resident district to transfer from a student’s resident district to a non-resident district on the official form approved by the Arkansas Department of Education.
- 3.05 Board – for purposes of this rule and regulation means the Arkansas State Board of Education.
- 3.06 Department – for purposes of this rule and regulation means the Arkansas Department of Education.

4.00 PROCESS AND PROCEDURES FOR SCHOOL DISTRICT PARTICIPATION/NON-PARTICIPATION IN PUBLIC SCHOOL CHOICE PROGRAM

- 4.01 Any school district seeking to participate in the Public School Choice Program must adopt a resolution setting forth specific standards for acceptance and rejection of applications.
  - 4.01.1 Such standards may include the capacity of a school program, class, grade level, or school building.
  - 4.01.2 School districts shall not be required to add teachers or classrooms or in any way exceed current requirements or standards established by existing law when considering whether to accept an application.
  - 4.01.3 A school district's standards shall include a statement that priority will be given to applications of siblings or step-siblings residing in the same residence or household of students already attending the non-resident district where an application has been filed.
  - 4.01.4 A school district's standards for acceptance and rejection of applications shall not include a student's previous academic achievement, athletic or extracurricular ability, handicapping conditions, English proficiency level, or previous disciplinary proceedings except that a current expulsion from another school district may be included as a standard.
- 4.02 Any school district seeking not to participate in the Public School Choice Program must adopt a resolution setting forth its decision not to participate in the school choice program and state the reasons for non-participation in the resolution.
- 4.03 Any school district electing to participate in the school choice program shall make public announcements in broadcast media and in print media at such times and in such manner so as to inform parents or guardians of students in adjoining school districts of the availability of the school choice program at the school district, the July 1 application deadline, and the requirements and procedures to non-resident students to participate in the program.

5.00 PROCESS AND PROCEDURES FOR APPLICATION FOR TRANSFER PURSUANT TO THE PUBLIC SCHOOL CHOICE PROGRAM

- 5.01 Any student may make application to enroll and attend a school in a non-resident district that participates in the Public School Choice Program

subject to the restrictions and procedures contained in this rule and regulation and Arkansas law.

5.01.1 Before a student may attend a non-resident district pursuant to the Public School Choice Program, the student shall submit an application on the form approved by and provided by the Department (see attached application) to the non-resident district.

5.01.2 The application to the non-resident district must be postmarked no later than July 1 of the year the student would begin the fall semester in the non-resident school district.

5.02 Within thirty (30) days of receipt of an application for public school choice transfer from a student, the non-resident district receiving the application shall notify in writing (via certified first class United States mail, return receipt requested) the parent or guardian and the resident district as to whether the non-resident district accepted or rejected the student's application.

5.02.1 If the application is rejected, the non-resident district must state in the notification letter the specific reasons for the rejection of the application.

5.02.2 If the application is accepted, the non-resident district shall state in the notification letter:

- a. An absolute deadline for the student to enroll in the district, or that the acceptance notification is null; and
- b. Any instructions for the renewal procedures established by the non-resident district.

5.03 Any student that submitted a valid application for transfer, which was rejected by a participating non-resident district, may petition the Board to reconsider the application for transfer. The petitioning party shall set forth its arguments and evidence supporting the request for the Board's reconsideration of the application along with a copy of the non-resident district's notification of rejection letter.

5.03.1 The petition for reconsideration before the Board shall be in writing and shall be postmarked (via certified first class United States mail, return receipt requested) no later than ten (10) days after the student or student's parents or guardian receives notice of rejection from the non-resident district. Any request for a hearing before the Board must be made in the petition for reconsideration.

- 5.03.2 The petitioning party must mail or personally file their petition for reconsideration of the application to the non-resident district with the Office of the Director of the Department.
- 5.03.3 The non-resident district may submit in writing additional information, evidence or arguments supporting its rejection of the student's application.
- 5.03.4 The Board, at its sole discretion, may grant a public hearing on the petition for reconsideration or consider without a public hearing the petition, briefs and evidence submitted in writing before issuing its final decision on the petition for reconsideration of the application.
- 5.03.5 The Board may require the non-resident district to reconsider its rejection of the student application by a date established by the Board before deciding whether to grant the petition for reconsideration of the application.
- 5.03.6 The Board, at its discretion, shall have the authority to require any person associated with the student application (i.e. student, parent, guardian, etc.), the non-resident district or the resident district to appear in person or by pleading before the Board as a witness on the matter of a petition for reconsideration of an application.

## 6.00 TRANSPORTATION OF STUDENTS IN PUBLIC SCHOOL CHOICE PROGRAM

- 6.01 Transportation of a student from the resident district to a non-resident district is the responsibility of the student or the student's parents or guardians.
- 6.02 The resident district and non-resident district may enter into a written agreement with the student or student's parents or guardians to provide transportation to or from the non-resident district.
- 6.03 A non-resident district shall terminate transportation of a student within a resident district upon the non-resident district's receipt of a written resolution (via certified first class United States mail, return receipt requested) by the local board of the resident district requiring the non-resident district to cease and desist transporting the student within the resident district.
- 6.04 A non-resident district shall terminate transportation services to a student upon receipt of written notice (via certified first class United States mail,

return receipt requested) from the Department to cease and desist transporting a student from the student's resident district.

#### 7.00 NON-RESIDENT DISTRICT'S RESPONSIBILITIES

- 7.01 The non-resident district shall accept all credits toward graduation of a student that were awarded by the resident district.
- 7.02 The non-resident district shall award a diploma to a non-resident student accepted for transfer under the Public School Choice Program if that student meets the non-resident district's graduation requirements.
- 7.03 The non-resident student accepted for transfer under the Public School Choice Program shall be counted as a part of the average daily membership of the non-resident district to which the student transferred.

#### 8.00 PROVISIONS FOR AND LIMITATIONS ON PUBLIC SCHOOL CHOICE TRANSFERS

- 8.01 No student may transfer to a non-resident district where the percentage of enrollment for the student's race exceeds that percentage in the student's resident district, except as provided in 8.01.1 and 8.01.2.
  - 8.01.1 A transfer is permitted if (1) all districts within a county have voted to participate in choice; (2) the transfer is between districts within the same county; and (3) the transfer does not result in either district exceeding the acceptable range of variance for representation of minority/majority students. The acceptable range of variance is determined as provided in Section 8.02, or
  - 8.01.2 A transfer is permitted if each school district within the county does not have a critical mass of minority percentages of more than ten percent (10%) of any single race and the transfer is between two school districts in the same county.
- 8.02 The Department shall each year compute the minority/majority racial percentage(s) of the public school population for each county from the October Annual School Report. School districts may vary in the under-representation or over-representation of minority/majority students by a maximum of twenty-five percent (25%) of the difference in majority/minority percentages for the county as determined by the Department. For example, when the Department has calculated the county's racial balance for each student race category, each district is allowed an over-representation or under-representation of minority or majority students of a range of up to twenty-five (25%) of the county's racial balance.

- 8.03 No student transfer shall be permitted under the Public School Choice Program when such a transfer would conflict with a desegregation court order or a district's court-approved desegregation plan.

## 9.00 REPORTING AND MONITORING OBLIGATIONS

- 9.01 The Department shall monitor school districts for compliance with the Public School Choice law (Ark. Code Ann. § 6-18-206) and these rules and regulations.
- 9.02 Each school district shall provide to the Department, within thirty (30) working days of receipt of a written request from the Department, any information or reports the Department deems necessary for review and determination of the school district's compliance with the Public School Choice law and these rules and regulations.
- 9.03 All school districts shall report to the Equity Assistance Center of the Department on an annual basis the race, gender, and other pertinent information needed to properly monitor compliance with the provisions of this section.
- 9.04 The reports may be on those forms that are prescribed by the Department, or the data may be submitted electronically by the district using a format authorized by the Department.
- 9.05 The Department may withhold state aid from any school district that fails to file its report each year or fails to file any other information with a published deadline requested from school districts by the Equity Assistance Center, so long as thirty (30) calendar days are given between the request for the information and the published deadline, except when the request comes from a member or committee of the General Assembly.

## 10.00 DISPUTES

- 10.01 Any school district may petition the State Board of Education to resolve alleged disputes arising under subsections (b) – (f) of Ark. Code Ann. § 6-18-206.
- 10.02 Any school district seeking to petition the State Board of Education must submit with its petition proof of public notice of the district's intent to petition the State Board. The public notice shall be published at least once per week for two consecutive weeks in a newspaper of general circulation in all the school districts impacted or involved in the alleged dispute.

- 10.03 The school district shall file its written petition with the Office of the Director of the Department at least thirty (30) working days prior to the State Board of Education meeting where the petition will be heard.
- 10.04 The school district shall provide proof in the petition that they have served (via certified first class United States mail, return receipt requested) a copy of their petition to the superintendent of all other school districts involved in the alleged dispute.
- 10.05 The petition shall set forth in writing the particular issues of dispute under the Public School Choice Program, the specific relief for which the petitioning party is requesting the Board to address, and shall list all school districts and other relevant parties in the dispute.
- 10.06 The petition shall set forth what efforts have been attempted by all relevant school boards and superintendents of the involved school districts to resolve the alleged dispute.
- 10.07 The petition shall state in writing whether the petitioning school district requests a hearing before the Board.
- 10.08 The Board, in its sole discretion, shall determine whether to grant a public hearing on a petition or to take action on the petition and pleadings submitted without granting a public hearing.
- 10.09 Any school district that is listed as a party in a petition to resolve a dispute shall file a written response with the Office of the Director of the Department. The written response shall be submitted for the Board's consideration along with the petition within ten (10) working days of receipt of notice of the petition.
- 10.10 The Board shall issue a written decision regarding all issues of alleged dispute mentioned in the petition, and the written decision shall be served on all the school districts listed as parties of dispute in the petition (via certified first class United States mail, return receipt requested) within twenty (20) working days of the Board's final decision.
- 10.11 Except for the procedures specifically set forth in Ark. Code Ann. § 6-18-206 and these rules and regulations, all hearings conducted by the Board shall be conducted pursuant to the Arkansas Administrative Procedures Act, Ark. Code Ann. § 25-15-201 et. seq..