

**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
September 2001**

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 State Board 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.