Arkansas Department of Education
Rules Governing the
Arkansas Comprehensive Testing, Assessment and Accountability Program
and the Academic Distress Program

October 9, 2006

1.0 Regulatory Authority

1.01 These Rules shall be known as the Arkansas Department of Education Rules Governing the Arkansas Comprehensive Testing, Assessment and Accountability Program (ACTAAP).

1.02 The State Board of Education promulgated these Rules pursuant to implementation of A.C.A. §§ 6-11-105, 6-15-431, 6-15-437, 25-15-201 and Act 2243 of the 85th Arkansas General Assembly.

2.0 Purposes of Rules

2.01 To develop a single comprehensive testing, assessment and accountability program, which applies to and governs all public schools and public school districts in Arkansas.

2.02 To develop a single comprehensive testing, assessment and accountability program which utilizes the most current and effective testing, evaluation and assessment research information designed to achieve the following:

2.02.1 Clear academic standards that are periodically reviewed and revised;

2.02.2 Professional development standards for all administrators, teachers and instructional support personnel;

2.02.3 Expected achievement levels;

2.02.4 Reporting on student achievement and other indicators;

2.02.5 School and school district evaluation data;

2.02.6 A system of sanctions and rewards based on performance of schools and school districts; and

2.02.7 Compliance with current federal and state law and State Board of Education policies.

2.03 To ensure that all students in the public schools of Arkansas have an equal opportunity to demonstrate grade-level academic proficiency through the application of knowledge and skills in the core academic subjects consistent with state curriculum frameworks, performance standards and assessments.

2.04 To improve student learning and classroom instruction and to support high academic standards for all students, including identifiable subgroups, by establishing the provisions, procedures and requirements for the student assessment program.

2.05 To require point-in-time intervention when it is determined that a student(s) is not performing at grade level.

2.06 To outline testing and assessment security and confidentiality requirements.

2.07 To establish a program to identify, evaluate, assist and advise public school districts in academic distress.

3.0 Definitions – For the purpose of these Rules, the following terms mean:

3.01 “Academic Content Standards” – a series of documents that specify what a student enrolled in an Arkansas Public School should know and be able to do. These Academic Content Standards also provide the foundation for development of the State assessment system.

3.02 “Academic Distress” – a classification assigned to any public school district in which 75% or more of its students perform at the “below basic” performance level on the criterion-referenced assessments administered in that district.

3.03 "Academic Improvement Plan” – a plan detailing supplemental or intervention and remedial instruction, or both, in deficient academic areas for any student who is not proficient on the state-mandated criterion-referenced assessments and state mandated developmental appropriate assessments for K-2 (or delayed as that term is defined in “Uniform Readiness Screening”).

3.04 “Adequate Yearly Progress” – the level of academic performance required of public schools or school districts on the state-mandated criterion-referenced assessments and/or other indicators as required in the ACTAAP, which shall comply with State and Federal law.

3.05 “Alternative Education Intervention Program” – A special instructional program for students who have been retained for two consecutive years. The program shall include research-based learning opportunities and instructional strategies.

3.06 “Approved Early Reading Assessments” – Those assessments that identify students’ strengths and weaknesses in all of the elements of reading as described in the Report of the National Reading Panel.

3.07 “Approved Intensive Reading Program” – Programs of high-quality instruction that include the essential elements of reading described in the Report of the National Reading Panel.

3.08 “Arkansas Comprehensive Assessment Program” – means the testing component of Arkansas Comprehensive, Testing, Assessment and Accountability Program, which shall consist of developmentally appropriate assessments for kindergarten, Grades one and two, national norm-referenced tests in Grades 3 through 9, any other assessments as required by the State Board of Education, criterion-references tests for Grades 3 through 8, or other assessments which are based on researched best practices as determined by qualified experts which would be in compliance with federal and state law, End-of-Course tests for designated grades and content areas, and the high school literacy test.

3.09 “Arkansas Comprehensive Testing, Assessment and Accountability Program” – means a comprehensive system that focus on high academic standards, professional development, student assessments, and accountability for all schools.

3.10 “Arkansas Comprehensive School Improvement Plan (ACSIP)” – a plan developed by a local school team based on an analysis of student performance data and other relevant data that provides a plan of action to address deficiencies in student performance as evidenced in the Arkansas Comprehensive Assessment Program as defined in Section 3.08. This plan shall be reviewed annually and monitored at least every two years. Components of the plan include professional development, technology, and materials and resources necessary to carry out the activities of the plan. Additionally, this plan shall become the application for all instructional federal programs as administered by the Department of Education.

3.11 “Awards” – financial or other recognition of a public school structured to recognize schools that demonstrate and maintain high performance over time and to recognize schools that demonstrate growth on the state-mandated indicators. Awards also can be used to highlight individual schools so that their practices can be adopted in other schools and districts across the state.

3.12 “Benchmarks/Grade-Level Benchmarks” – Academic Content Standards and/or grade-level statements of what a student should know and be able to do. The Grade-Level Benchmarks provide guidance to classroom teachers in planning instruction aligned with the Academic Content Standards.

3.13 “Board” – The Arkansas State Board of Education.

3.14 “Criterion-Referenced Test (CRT)” – an assessment required by state statute, rule or regulation which is designed by the State to measure student performance/achievement on the State’s Academic Content Standards.

3.15 “Department” – The Arkansas Department of Education.

3.16 "District Improvement Plan" – a compilation of the individual school improvement plans which align the district's resources to meet the needs of the individual school's plans. The main focus of the district improvement plan shall be to ensure that all students have an opportunity to demonstrate proficiency on all portions of state-mandated criterion-referenced assessments.

3.17 "Early Intervention" – a short-term, intensive, focused individualized instruction developed from ongoing, daily, systemic assessment that occurs while a child is in the initial, kindergarten through grade one (K -1), stages of learning.

3.18 "Elementary School" – public school(s) having some combination of grades kindergarten through four (K – 4).

3.19 "End-of-Course Test" – an assessment taken at the completion of a course of study to determine whether a student demonstrates attainment of the knowledge and skills necessary for proficiency in that course.

3.20 "Essential Elements – Early Reading"
Comprehension – Understanding and remembering what is read
Decoding and Word Recognition (Phonics) – Recognizing words accurately, fluently, and independently
Fluency – Ability to read text accurately, quickly and with expression
Phonemic Awareness – Ability to hear and manipulate the sound structure of language
Vocabulary – Words that must be known to communicate effectively

3.21 "Grade Level" – performance of a student (or group of students) at the proficient level on benchmark assessments at the specified grade that is age-appropriate for that student(s).

3.22 "High School" – public school(s) having some combination of grades 9 – 12.

3.23 "Intensive Reading Improvement Plan (IRI)" – An intervention program for any K-2 student identified with substantial reading difficulties.

3.24 "Longitudinal Tracking" – means tracking individual student yearly academic achievement gains based on scheduled and annual assessments.

3.25 "Middle School" – public school(s) having some combination of grades five through eight (5 – 8).

3.26 "Norm-Referenced Test (NRT)" – an assessment required by state law, rule or regulation to measure the performance/achievement of Arkansas students relative to the achievement of students who comprised the norm or standardization group for a particular commercial instrument.

3.27 “Participation in Remediation” The amount of student involvement required in a student academic improvement plan that addresses those deficiencies for that student.

3.28 “Pass Rate” – The pass rate for the Benchmark Exams and the developmental appropriate assessments for K – 2 shall be proficiency. However, the pass rate for end-of-course and high school literacy shall be those scores established and independently approved by the State Board of Education. (See 6.03 for the proficiency definition)

3.29 “Public School District/Public School” – those school districts and schools (including open-enrollment charter schools) created pursuant to Title 6 of the Arkansas Code and subject to the Arkansas Comprehensive Testing, Assessment and Accountability Program except specifically excluding those schools or educational programs created by or receiving authority to exist pursuant to §6-15-501; §9-28-205, and §12-29-301 through §12-29-310, or other provisions of Arkansas law.

3.30 “Remediation” – a process of providing corrective, specialized supplemental instruction to help a student overcome academic deficiencies pursuant to their student academic improvement plan.

3.31 “Safe Harbor” – An alternate method of demonstrating Adequate Yearly Progress under the No Child Left Behind Act determined by decreasing the percent of students not performing at the proficient level on the Criterion Referenced Assessments by at least ten percent. Safe Harbor can only be applied if the school meets the secondary indicator condition and tests 95% or more of eligible students.

3.32 “Sanction” – intervention by the state to assist teaching and learning at a public school or a public school district that fails to meet expected performance goals on the state-mandated criterion-referenced assessments and/or other indicators.

3.33 “School Improvement” – the initial classification applied to a school that fails to meet adequate yearly progress for two successive years.

3.34 “Starting Point” – a specific figure for grade-level clusters K- 5, 6-8, and 9-12 in the content areas of literacy and mathematics which was derived by determining the school at the 20th percentile in the state based on total enrollment, among all schools ranked by the percentage of students at the proficient level, using data for the 2001-2002 school year or subsequent year for which there is a recalculation.

3.35 “Secure Examination or Assessment” – an assessment instrument, materials or other student achievement evaluation method required by State statute, rule or regulation that is administered to assess student performance or achievement and takes place on the dates specified on the testing/assessment calendar developed by the Commissioner of the Department.

3.36 “Substantial Reading Deficiency” – a determination for first and second grade students who score in the Below Basic Category on the State Reading Assessment in the previous school year and for kindergarten students who are rated as Delayed in both oral communication and written language on the Uniform Reading Scale (URS).

3.37 “Uniform Readiness Screening” - uniform, objective evaluation procedures specifically formulated for children entering public school for the first time that are intended for either kindergarten or first grade, as appropriate, and developed or adopted by the Board.

3.38 “Value-Added Computations of Student Gains” – statistical analyses of the educational impact of the school’s instructional delivery system on individual student learning using a comparison of previous and post student achievement gains.

4.0 Academic Content Standards

4.01 The Board shall establish clear, specific, challenging academic content standards, which define what students shall know and be able to do in each content area.

4.02 The Board shall establish a schedule for periodic review and revision of academic content standards to ensure Arkansas academic content standards are rigorous and equip students to compete in the global workforce. For each review, the Department will provide the following:

4.02.1 Study and consideration of academic content standards from across the nation and international levels as appropriate;

4.02.2 Study and consideration of evaluations from national groups or organizations as appropriate;

4.02.3 Committees composed of Arkansas teachers and instructional supervisory personnel from public schools, assisted by teachers from institutions of higher education;

4.02.4 Review and input by the Departments of Higher Education and Workforce Education as well as community members; and

4.02.5 Public dissemination of revised academic content standards on the Department Website.

4.03 The Board shall provide for external review of revised standards by nationally recognized content experts in the discipline/area under consideration.

4.04 The Board shall establish a clear, concise system of reporting the academic performance of each school on the state’s mandated criterion-referenced assessments and the norm-referenced assessments, which conform to current state and federal law.

4.05 Each local school/school district shall engage in a procedure that will assure that the academic standards for every level - grades kindergarten through twelve (K-12) are aligned and education and financial resources are aligned with student performance expectations at each level.

5.0 Arkansas Comprehensive Assessment Program

The Board shall establish a statewide assessment system for Grades K through 12 to be implemented in each public school in the State by the Department. All districts shall comply with the requirements of the assessment system. Failure to do so shall result in a recommendation to the Board for Probationary status or loss of accreditation as set out in the Standards for Accreditation, or for other intervention or sanction as allowed or required by these rules, state or federal law.

Local district school boards shall not establish school calendars that jeopardize or limit the valid testing and comparison of student learning gains.

5.01 Kindergarten, Grade One and Grade Two

5.01.1 The Board shall adopt and the Department shall implement a developmentally appropriate, uniform school readiness screening to validate a child's school readiness as part of a comprehensive evaluation decision. Beginning with the 2004-2005 school year and thereafter, the Department shall require that all school districts administer the uniform school readiness-screening instrument to each kindergarten student in the district prior to or upon the entry into kindergarten. Children who enter public school for the first time in first grade must be administered the uniform school readiness screening instrument as modified for use in first grade to determine placement.

5.01.2 Kindergarten, Grades 1 and 2: The Department shall select a developmentally appropriate assessment to be administered to all students in kindergarten, Grades one (1) and two (2) in reading and mathematics.

5.02 Criterion-Referenced Tests - Grades three through eight and high school

5.02.1 The Department shall develop and implement criterion-referenced assessments as follows: (1) Grades three (3) through eight (8) which measure application of knowledge and skills in reading and writing literacy and mathematics and science in Grades 5 and 7; (2) End-of-Course testing in Algebra I, geometry and Biology I (Biology begins in 2007-2008); (3) High school literacy that measures application of knowledge and skills in reading and writing literacy; and (4) social studies as funds are available and approved by the State Board of Education.

5.02.2 All criterion-referenced assessments shall be based on the Arkansas Curriculum Frameworks and Academic Content Standards.

5.02.3 All students in Grades 3 – 8 as well as all students enrolled in courses for which End-of-Course assessments are administered, shall take the criterion-referenced assessments on the testing dates established by the Department. This requirement includes the high school literacy assessment. This authority shall include field testing and any other requirements needed to establish fully-developed assessment instruments and methodologies.

5.02.4 Each school district shall administer criterion-referenced assessments to its students according to procedures established by the Commissioner of Education and specified in the applicable assessment administration materials.

5.02.5 Accounting for Students with Disabilities and Limited English Proficient Students

5.02.5.1 Each student in the specified grades shall participate as outlined in the test coordinator's handbook. A student shall participate in the Arkansas Alternate Assessment Program only upon the formal determination of :

5.02.5.1.1 The student's individual education program (IEP) committee, as documented in the student's individual educational program; or

5.02.5.2 The Individual Education Program (IEP) committee shall determine whether or not participation in the standard state assessment program is appropriate for students with IEPs. Students with disabilities for whom it is deemed inappropriate to take the standard state assessments (Benchmarks and End-of-Course) with the established accommodations shall participate in the Arkansas Alternate Assessment Program following the guidelines established by the Board.

5.02.5.3 Scores for students with disabilities shall be reported with other assessment results from the school.

5.02.5.4 LEP students shall participate in all required criterion referenced assessments. LEP students may access state approved accommodations provided such accommodations have been recommended by the language proficiency

assessment committee and are used regularly in classroom instruction and assessment.

5.02.5.5 LEP students with less than one year in a U.S. school will not be required to take the State required literacy benchmark test or the High school literacy test. Districts may exercise this option. LEP students must take the appropriate mathematics test.

5.03 Norm-Referenced Assessments

5.03.1 The Board shall adopt a norm-referenced test to be administered in Grade 3 through Grade 9 in mathematics and reading, which shall be administered by the Department annually.

5.03.2 Each school district shall administer the norm-referenced assessments to its students according to procedures established by the Department and specified in the applicable test administration materials.

5.03.3 The Department shall establish mandatory training sessions for local district testing coordinators and other appropriate school personnel to ensure understanding of the norm-referenced assessments, proper administration of assessments, security, and effective use of the assessment reporting data to improve classroom instruction and learning.

5.04 National Assessment of Educational Progress

5.04.1 Selected schools shall participate in any or all components of the National Assessment of Educational Progress (NAEP).

5.04.2 Any school that fails to participate in the administration of any NAEP assessment shall be reported to the Board and may be subject to probationary status as set out in the Standards for Accreditation

5.05 Test Administration

5.05.1 The Department shall establish mandatory training sessions for local district testing coordinators and other appropriate school personnel to ensure understanding of the administration of assessments and effective use of assessment reporting data to improve classroom instruction and learning to provide program evaluation;

5.05.2 The superintendent or his/her designee in each school district shall be responsible for coordinating all local assessment activities including:

5.05.3 Scheduling testing times of all affected campuses according to the testing calendar developed by the Department;

5.05.4 Ensuring that security is maintained as specified in the appropriate testing administration materials;

5.05.5 Ensuring that all district personnel involved in the testing have been properly trained as specified by the Department;

5.05.6 Ensuring that all testing instruments are administered to all students according to the procedures established by the Commissioner of Education;

5.05.7 Ensuring that all assessment documents and student identification information are properly and accurately coded; and

5.05.8 Attesting whether ALL students have participated in the appropriate grade-level assessment(s).

5.05.9 Recommending for adoption by local school boards a school calendar that in no way jeopardizes or limits the valid testing and comparison of students' learning gains.

5.05.10 The appropriate test administration materials shall specify any allowable accommodations available to students participating in the administration of standard state assessments.

5.05.11 All students enrolled in a State-tested grade shall be accounted for in the State Assessment System.

5.06 A Technical Advisory Committee composed of nationally-recognized testing experts and psychometricians shall be selected by the Commissioner of Education and shall advise the Department in all technical aspects of the assessment system.

5.07 Security and Confidentiality

5.07.1 Violation of the security or confidential integrity of any assessment is prohibited.

5.07.2 The Board shall sanction a person who engages in conduct prohibited by this section, as provided under Arkansas Code §6-17-405 and following the Process for Certificate Invalidation as approved by the Board. Additionally, the Board may sanction a school district and/or school in which conduct prohibited in this section occurs.

5.07.3 Procedures for maintaining the security and confidential integrity of all assessment instruments and procedures shall be specified in the appropriate test administration instructions. Conduct that violates the security or confidential integrity of an assessment is

defined as any departure from either the requirements established by the Commissioner of the Department for the administration of the assessment or from the procedures specified in the applicable test administration materials. Conduct of this nature may include, but is not limited to the following acts and omissions:

5.07.3.1 Viewing secure assessment materials;

5.07.3.2 Duplicating secure assessment materials;

5.07.3.3 Disclosing the contents of any portion of secure assessment materials;

5.07.3.4 Providing, suggesting, or indicating to an examinee a response or answer to any secure assessment items;

5.07.3.5 Aiding or assisting an examinee with a response or answer to any secure assessment item;

5.07.3.6 Changing or altering any response or answer of an examinee to a secure assessment item;

5.07.3.7 Failing to follow the specified testing procedures or to proctor students;

5.07.3.8 Failing to administer the assessment on the designated testing dates;

5.07.3.9 Encouraging or assisting an individual to engage in the conduct described in this subsection;

5.07.3.10 Failing to report to appropriate authority that an individual has engaged in conduct set forth is this section;

5.07.3.11 Failing to follow the specified procedures and required criteria for alternate assessments; or,

5.07.3.12 Failing to return the secured test booklets back to the testing company in a timely manner.

5.07.4 The superintendent of each school district shall develop procedures to ensure the security and confidential integrity of all assessment instruments and test items. The superintendent shall be responsible for immediately notifying the Department in writing of conduct that violates the security or confidential integrity of an examination or assessment.

6.0 Student Performance Levels

6.01 The Board shall establish four (4) performance levels for each criterion-referenced assessment administered as part of ACTAAP. The Board shall establish five (5) performance levels for the Alternate Assessment for Students with Disabilities as part of ACTAAP. Those performance levels shall be not evident, emergent, supported independence, functional independence, and independent. Performance levels shall be established for mathematics, reading/language arts and science independently. Additionally, the Board shall establish a pass rate for each end-of-course and high school literacy assessment.

6.02 The Board shall establish four (4) performance levels for Grades K-2 for the norm-referenced assessment administered as part of the Arkansas Comprehensive Assessment Program for reading and mathematics. The following numerical scores define those performance levels.

Mathematics Norm Referenced Assessment standard score cut scores*				
Grade	Below Basic	Basic	Proficient	Advanced
K	0-120	121-128	129-136	137-400
1	0-134	135-146	147-159	160-400
2	0-148	149-164	165-181	182-400

*Lowest possible standard score value is 80

Reading Norm-Referenced Assessment standard score cut scores*				
Grade	Below Basic	Basic	Proficient	Advanced
K	0-119	120-127	128-137	138-400
1	0-136	137-145	146-158	159-400
2	0-153	154-165	166-182	183-400

*Lowest possible standard score value is 80

6.03 The following numerical scores define the performance levels on the criterion-referenced assessments and on the Students with Disabilities Alternate Assessment for not evident, emergent, supported independence, functional independence and independent. Functional independence and independent are considered to be grade level.

Mathematics Criterion Referenced Assessments (Benchmarks) raw score points				
Grade	Below Basic	Basic	Proficient	Advanced
3	0 – 22	23 – 39	40 – 56	57 – 80
4	0 – 31	32 – 44	45 – 60	61 – 80
5	0 – 30	31 – 42	43 – 60	61 – 80
6	0 – 29	30 – 45	46 – 60	61 – 80
7	0 – 27	28 – 37	38 – 56	57 – 80
8	0 – 29	30 – 38	39 – 59	60 – 80

Literacy Criterion Referenced Assessments (Benchmarks) raw score points				
Grade	Below Basic	Basic	Proficient	Advanced
3	0 – 47	48 – 64	65 – 79	80 - 96
4	0 – 41	42 – 63	64 – 79	80 - 96
5	0 – 38	39 – 61	62 – 80	81 - 96
6	0 – 43	44 – 68	69 – 82	83 – 96
7	0 – 42	43 – 64	65 – 79	80 – 96
8	0 – 46	47 – 63	64 – 80	81 - 96

Mathematics Alternate Assessment Students with Disabilities raw score points					
Grade	Not Evident	Emergent	Supported Independence	Functional Independence	Independent
3	0-431	432-517	518-530	531-573	574-600
4	0-426	427-522	523-535	536-563	564-600
5	0-413	414-523	524-539	540-575	576-600
6	0-437	438-533	534-551	552-573	574-600
7	0-469	470-539	540-559	560-574	575-600
8	0-505	506-552	553-569	570-577	578-600

Literacy Alternate Assessment Students with Disabilities raw score points					
Grade	Not Evident	Emergent	Supported Independence	Functional Independence	Independent
3	0-387	388-436	437-490	491-533	534-540
4	0-399	400-447	448-493	494-527	528-540
5	0-340	341-420	421-491	492-527	528-540
6	0-302	303-420	421-485	486-515	516-540
7	0-311	312-420	421-487	488-513	514-540
8	0-327	328-448	449-501	502-514	515-540

End of Course Geometry		End of Course Algebra I	
Performance Standards		Performance Standards	
Advanced	250 & above	Advanced	250 & above
Proficient	200 – 249	Proficient	200-249
Basic	154-199	Basic	151-199
Below Basic	153 & below	Below Basic	150 & below

Literacy (High school)	
Performance Standards	
Advanced	250 & above
Proficient	200 – 249
Basic	169-199
Below Basic	168 & below

7.0 Student Accountability

7.01 By the year 2013-2014 all students are expected to perform at the proficient level or above.

7.02 Beginning with the 2005-2006 school year, a) students identified as failing to achieve at the proficient level on the State 2004-2005 or any subsequent mandated CRT (as referenced in Section 6.03 tables: Mathematics Criterion Referenced Assessments, Benchmarks, raw score

points and Literacy Criterion Referenced Assessments, Benchmarks, raw score points, etc.); b) students in Grade K scoring delayed on either written language or oral communications and scoring delayed in mathematics on the state mandated uniform readiness screening (as referenced in Sections 3.36 and 3.37 Uniform Readiness Screening); and c) students in Grades 1 and 2 not scoring proficient on the state mandated NRT(as referenced in Section 6.02 tables, Mathematics Norm Referenced Assessment standard score cut scores and Reading Norm-Referenced Assessment standard score cut scores), shall be evaluated by school personnel, who shall jointly develop, a remediation plan with the student's parents. The remediation plan (AIP or if appropriate IRI) will assist the student in achieving the expected standard and will describe the parent's role and responsibilities as well as the consequences for the student's failure to participate in the plan.

7.02.1 The AIP shall be prepared using the format designed by the Department of Education. However, the local school may adjust the format as deemed necessary.

7.02.2 The AIP shall be developed cooperatively by appropriate teachers and/or other school personnel knowledgeable about the student's performance or responsible for the remediation in consultation with the student's parents. An analysis of student strengths and deficiencies based on test data and previous student records shall be available for use in developing the Plan. The plan shall be signed by the appropriate school administrator and the parent/guardian.

7.02.3 The AIP should be flexible, should contain multiple remediation methods and strategies, and should include an intensive instructional program different from the previous year's regular classroom instructional program. Examples of strategies and methods include, but are not limited to, computer assisted instruction, tutorial, extended year, learning labs within the school day, Saturday school, double blocking instruction in deficient areas during the school day, extended day etc.

7.02.4 The AIP shall include formative assessment strategies and shall be revised periodically based on results from the formative assessments.

7.02.5 The AIP shall include standards-based supplemental/remedial strategies aligned with the child's deficiencies.

7.02.6 A highly qualified teacher and/or a highly qualified paraprofessional under the guidance of a highly qualified teacher shall provide instructional delivery under the AIP.

7.02.7 The AIP should contain an implementation timeline that assures the maximum time for remedial instruction.

7.02.8 AIPs should be individualized; however, similar deficiencies based on test data, may be remediated through group instruction.

7.02.9 In any instance where a student with disabilities identified under the Individuals with Disabilities Education Act has an Individualized Education Program (IEP) that already addresses any academic area or areas in which the student is not proficient on state-mandated criterion-referenced assessments, the individualized education program shall serve to meet the requirement of an AIP.

7.03 Retention for failure to participate in the Academic Improvement Plan

7.03.1 School districts shall notify parents, guardians or caregivers of remediation requirements and retention consequences for failure to participate in the required remediation at the beginning of the 2004-2005 school year. Beginning with the 2005-2006 school year, this information shall be included in the student handbook.

7.03.2 Beginning with the 2005-2006 school year, students in Grades three through eight, identified for an AIP who do not participate in the remediation program shall be retained. The local district shall determine the extent of the required participation in remediation as set forth in the student academic improvement plan.

7.03.3 Remedial instruction provided during high school years (Grades 7 – 12) may not be in lieu of English, mathematics, science or social studies, or other core subjects required for graduation.

7.03.4 Any student who does not score at the Proficient level on the criterion–referenced assessments in reading, writing and mathematics shall continue to be provided with remedial or supplemental instruction until the expectations are met or the student is not subject to compulsory school attendance.

7.03.5 Any student that has an AIP and fails to remediate, but scores at the Proficient level on the criterion-referenced assessments, shall not be retained.

7.03.6 Beginning in the 2005-2006 school year, students not proficient on the End-of-Course tests or on the high school Literacy test, shall participate in a remediation program to receive credit for the corresponding course.

7.03.7 Beginning with the 2009-2010 school year, students who fail to meet the pass rate on the end-of-course assessments shall not receive credit for the course until at least one of the following conditions are met. Any student failing to meet one of these conditions shall not be entitled to graduate with a high school diploma from an Arkansas high school or charter school.

7.03.7.1 The student is identified as meeting a satisfactory pass level on a subsequent end-of-course assessment.

7.03.7.1.1 No student that is identified as having failed to meet the satisfactory pass levels on an initial end-of-course assessment shall be entitled to take more than three (3) additional subsequent end-of-course assessments. ADE will determine annually the schedule for administration of additional assessments.

7.03.7.1.2 Prior to a student taking additional end-of-course assessments, the student shall be given a sufficient opportunity and time for remediation.

7.03.7.2 The student is identified as having, by the end of grade twelve (12), finished an appropriate Alternate exit course and is identified as having met a satisfactory pass level on an Alternate assessment directly related to the Alternate exit course.

7.03.7.2.1 Any student that fails to pass the end-of-course assessment after three additional attempts shall be required to take and pass an Alternate exit course and meet a satisfactory Alternate level score on a subsequent Alternate assessment.

7.03.7.2.2 Alternate exit courses may be offered through a distance learning class and may be offered outside the normal school day.

7.03.7.3 The student is identified as a student with disabilities who, because of the nature of the disabilities, cannot meet the requirements. In such case that student may graduate from high school by demonstrating alternate competencies or Alternate levels of competency as contained in the student's individualized education program.

7.04 The results of End-of-Course assessments shall become a part of each student's transcript or permanent record. Each course for which a student completes the assessment shall be recorded with the performance level (advanced, proficient, basic or below-basic).

7.05 The Department shall implement a statistical system that shall provide the best analysis of classroom, school, and school district effects on student progress based on established, value-added longitudinal calculations, which shall measure the difference in a student's previous year's achievement compared to the current year achievement for the purposes of improving student achievement, accountability, and recognition.

7.06 The approach used by the Department shall be in alignment with federal statutes and developed in 2004-2005 to collect data to allow research and evaluation of student achievement growth models.

7.07 The approach shall include value-added longitudinal calculations with sufficient transparency in the model's conception and operation to allow others in the field to replicate the results.

7.08 Reading Deficiency for Students in Kindergarten through Grade Two

7.08.1 Beginning with the 2005-2006 school year, any student who exhibits a substantial reading deficiency shall be provided intensive reading instruction utilizing a scientifically-based reading program. The intensive instruction shall systematically, explicitly, and coherently provide instruction in the five essential elements of reading as defined in Section 3.20.

7.08.2 During the 2005-2006 school year, the State Board of Education shall establish performance levels for kindergarten, Grade 1 and Grade 2 that define substantial difficulties in reading based on the State mandated, developmentally appropriate assessment. The State mandated Uniform Screening Readiness (USR) instrument shall be used to determine substantial reading difficulty for kindergarten students.

7.08.3 Beginning with the 2005-2006 school year, all kindergarten students exhibiting substantial difficulties in reading will be evaluated by school personnel for the purpose of diagnosing specific reading difficulties. This evaluation will occur within 30 days of receiving the USR results.

7.08.4 Beginning with the 2005-2006 school year, within 30 days of the beginning of school, Grade 1 and Grade 2 students exhibiting substantial difficulties in reading will be evaluated by school personnel for the purpose of diagnosing specific reading difficulties. However, in those school years in which the State Board of Education shall revise the performance levels schools shall be allowed 30 days from the date of the final approval to conduct the evaluation.

7.08.5 The evaluation shall include the Dynamic Indicators of Basic Early Literacy Skills (DIBELS).

7.08.6 Beginning with the 2005-2006 school year, school personnel shall develop an intensive reading Improvement plan (IRI) that describes the intervention program for any student identified with substantial reading difficulty. The IRI shall be developed cooperatively by appropriate teachers and/or other school personnel knowledgeable about the student's performance or responsible for remediation.

7.08.7 The IRI shall contain an implementation timeline that assures the maximum time for remedial instruction. The intervention shall occur during the regular school day whenever possible, but may include extended day when appropriate. The intervention shall supplement, and not supplant, core classroom instruction.

7.08.8 The IRI shall include valid and reliable progress monitoring assessments to measure student growth toward the grade level benchmarks in each essential element of reading.

7.08.9 The intensive reading instruction provided under the IRI shall utilize strategies that are aligned with scientifically-based reading research.

7.08.9.1 The intensive instruction shall systematically, explicitly and coherently provide instruction in the five essential areas of reading. The intensity and focus of the instruction shall be based on the evaluation results, teacher observation, and data from progress monitoring assessments. The intervention plan shall be revised periodically to reflect student needs as indicated on progress monitoring assessments.

7.08.9.2 The IRI should be individualized; however, similar deficiencies may be remediated through group instruction.

7.08.9.3 A highly qualified teacher and/or a highly qualified paraprofessional under the guidance of a highly qualified teacher shall provide instruction under the IRI.

7.08.9.4 The intervention shall continue until the child has reached grade level benchmarks in all essential areas of reading.

7.08.10 Student achievement in each of the essential elements shall be monitored monthly after students complete the intervention. Students who are not meeting current expectations shall be provided additional interventions.

7.08.11 In any instance where a student with disabilities identified under the Individuals with Disabilities Act has an IEP that already addresses reading deficiencies, the individual education program shall serve to meet the requirements of the IRI.

7.09 The parent or guardian of any student identified with a substantial reading deficiency shall be notified in writing to include the following:

7.09.1 That the child has been identified as having a substantial deficiency in reading;

7.09.2 A description of the current services that are provided to the child; and,

7.09.3 A description of the proposed supplemental instructional services and supports that will be provided to the child that are designed to remediate the identified area of reading deficiency.

8.0 School Accountability

8.01 The Department of Education shall provide analyses of data produced by the Arkansas Comprehensive Assessment Program and other reliable measures of student learning to determine classroom, school, and school district academic performance.

8.02 Student performance trend data shall be one of the components used in developing objectives of the school improvement plan, internal evaluations of instructional and administrative personnel, assignment of staff, allocation of resources, acquisition of instructional materials and technology, performance-based budgeting, and assignment of students into educational programs of the local school program.

8.03 Each school shall develop one (1) Arkansas Comprehensive, School Improvement Plan (ACSIP) focused on student achievement. This requirement is intended to focus the school/school district annually on the school's performance data for the purposes of improved student performance, based on data and the performance of students on the state assessment system.

8.04 The purpose of ACSIP is to provide equal opportunity for all students, including identifiable subgroups, to meet the expected performance levels established by the Board on all State assessments.

8.05 Consistent with the No Child Left Behind Act, each school must make adequate yearly progress (AYP), based primarily on the administration of the criterion-referenced assessments described in Section 5.02. In order to make AYP, a school or school district must—

• Demonstrate that at least 95 percent of all students and of students in each applicable subgroup, as provided in Section 8.06, at the tested grade levels, participated in the assessments;

• Meet or exceed the annual measurable performance levels described in Section 904.5, based on the percentages of students scoring proficient or above on the assessments, overall and for each applicable subgroup; or alternatively, if the total group or any subgroup does not meet the annual measurable performance levels, demonstrate that the percentage of students in that subgroup who did not meet the proficient level for that year decreased by 10 percent of that percentage from the preceding school year and that the subgroup made progress on one additional academic indicator; and

• Show progress for all students on an additional academic indicator, which shall be graduation rate for high schools and percent attendance for elementary and middle schools.

8.06 The following subgroups must be included in the school/school district data disaggregation:

8.06.1 Students with Disabilities
8.06.2 Students who are English Language Learners
8.06.3 Economically Disadvantaged Students
8.06.4 Ethnic Subgroups
8.06.4.1 Caucasian
8.06.4.2 African American
8.04.4.3 Hispanic

8.07 A school must meet AYP criteria overall and for each of these subgroups that meets the minimum group size as determined by the Department of Education and approved by the U.S. Department of Education.

8.08 The Department will determine AYP separately for mathematics and literacy, using appropriate statistical treatments. Based on the single statewide starting point described in this section, annual performance levels assure that ALL students will reach proficient by school year 2013-2014.

8.09 The Department will determine for each school in the state the percent of students performing at the proficient or advanced levels. This percentage will be determined by computing the sum of students proficient or advanced for the current year or the most recent three years across each grade for which there is a criterion-referenced assessment. That sum is divided by the total number of students assessed for that year or across those three years and grades. This number shall include students taking alternate assessments. The percentage shall be determined separately for mathematics and reading/literacy.

8.10 The AYP starting point regarding percent proficient on state assessments will be determined for grade-level clusters K- 5; 6 – 8; and 9 – 12 and separately for mathematics and reading/literacy.

8.11 The AYP starting point will be determined by ranking each school within the grade-level by the percent proficient. Additionally, the ranking will include the total student enrollment for those grades using October 1, 2002, data or October 1 of a subsequent year for which there is a recalculation.

8.12 The Department will determine the school that contains the 20th percent student of total enrollment – starting from the school with the lowest percent proficient and counting upward. The percent proficient of that school becomes the “starting point” for determining AYP for that grade-level cluster and content area.

8.13 The following table establishes the starting point and projected performance level for each year of the twelve years addressed by the No Child Left Behind Act.

Calculating AYP and Annual Expected Performance Levels

	K-5 Math	K-5 Literacy	6-8 Math	6-8 Literacy	9-12 Math	9-12 Literacy
Year 05-06	40.00	42.40	29.10	35.20	29.20	35.50
Year 06-07	47.50	49.60	37.96	43.30	38.05	43.56
Year 07-08	55.00	56.80	46.83	51.40	46.90	51.63
Year 08-09	62.50	64.00	55.69	59.50	55.75	59.69
Year 09-10	70.00	71.20	64.55	67.60	64.60	67.75
Year 10-11	77.50	78.40	73.41	75.70	73.45	75.81
Year 11-12	85.00	85.60	82.28	83.80	82.30	83.88
Year 12-13	92.50	92.80	91.14	91.90	91.15	91.94
Year 13-14	100.00	100.00	100.00	100.00	100.00	100.00

8.14 Each year, in determining whether a school has met the target of percent proficient for that school year as listed on the chart, the Department shall compare the school's percent proficient in the appropriate grade-level cluster and content area with the statewide projected goal for that year. A school shall be deemed to have met AYP for a particular year for a particular grade-level cluster and content area as long as the school attains at least the statewide projected goal.

8.15 Schools/School Districts failing to meet expected performance standards as established by the Board shall be subject to sanctions as specified in school improvement or academic distress.

8.16 Schools/School Districts exemplifying exceptional performance levels and/or growth patterns shall be recognized for exemplary performance and will be eligible to participate in the rewards program.

9.0 Accountability

Schools failing to meet Adequate Yearly Progress as determined under these Rules shall be classified subject to the following consequences.

9.01 A school will be identified in alert status if it has not made AYP in the same subject (Mathematics or Literacy) for one year.

9.02 A school will be identified as in Improvement Status if it has not made AYP in the same subject (Mathematics or Literacy) for two consecutive years.

9.03 A school in Alert Status or Improvement Status that fails to make AYP, but does not fail to make AYP in the same subject for two consecutive years, will remain in its existing status for the following school year.

9.04 The first year a school fails to meet expected performance levels, that school shall be classified as on Alert Status. Any school classified on Alert Status shall be required to review and/or revise the school's ACSIP Plan with special attention given to State designated subgroup(s) which failed to meet expected performance levels.

9.05 The local school board president and the superintendent of a public school or school district identified by the Department in school improvement shall be notified in writing by the Department, via certified mail, return receipt requested, and the school district shall have a right to appeal to the Commissioner of the Department. The written appeal must be received in the Office of the Commissioner of Education within thirty (30) calendar days of the receipt of notice.

9.06 The second year a school fails to make Adequate Yearly Progress, that school shall be classified as Year 1 of School Improvement. Any school classified in Year 1 of School Improvement shall offer eligible students choice options to another school in the district not in school improvement.

9.07 The third year a school fails to make Adequate Yearly Progress, that school shall be classified as Year 2 of School Improvement. Any school classified in Year 2 of School Improvement shall offer eligible students supplementary educational services in keeping with federal guidelines in addition to continued consequences from Year 1 of School Improvement.

9.08 Should a school fail to make Adequate Yearly Progress in the fourth year, the Board shall advance that school into corrective action. Schools in corrective action must continue to offer consequences from School Improvement Year 2 and the school must implement a plan, with the approval of the Department, having specified corrective actions.

9.09 Should a school fail to make Adequate Yearly Progress in the fifth year, the Board shall advance that school into restructuring. In restructuring the Department may require the school to dismiss staff and administrators, annex the school to another school that is not in school improvement, and/or take other such action as deemed necessary by the Department and the Board.

9.10 Once a school has been identified in school improvement, that school must meet the standard(s) for which it failed to meet for two consecutive years to be considered for removal.

9.11 Schools that receive Title I funds must meet all funding requirements as specified by federal guidelines. Schools that do not receive Title I funds must implement programming in keeping with the school's ACSIP Plan as revised.

9.12 Beginning with the 2006-2007 school year, schools designated in year three, four or five school improvement shall participate in a scholastic audit conducted by the Department of Education (or its designees).

19.12.1 Results of the scholastic audit shall be presented to the superintendent within four (4) weeks of completing the scholastic audit. The audit shall make recommendations to improve teaching and learning for inclusion in the comprehensive school improvement plan.

9.13 School Performance Rating System

9.13.1 The Department of Education will establish a working task force during the 2004-2005 school year to assist in the development of the rating system. The task force shall include educators, parents, and business/community stakeholders. In order to keep the rating system reliable and valid, a Technical Advisory Committee composed of nationally recognized accountability experts, statisticians, and psychometricians shall be selected by the Commissioner of Education and shall advise the Department in all technical aspects of the accountability system. The rating system shall include the establishment of a performance level and an improvement level. The improvement level shall be assigned in the 2007-2008 school year and the performance level shall be assigned no later than the 2009-2010 school year. The ADE will implement a pilot system of performance levels required by A.C.A. § 6-15-1903, at least one (1) year prior to the year of implementation required by law. The performance level designations may be applied to any school district requesting to be classified by such performance designations as allowed by A.C.A. § 6-15-1903 (b) (1).

9.14 Performance Category Levels

9.14. 1 The Department of Education shall prepare an annual report, which shall describe the school rating system. The annual report shall designate two (2) category levels for each school. The first category, annual performance, is based on the performance from the prior year on the criterion-referenced test and end–of–course exams. The second category, growth, shall be based on the schools' improvement gains tracked

longitudinally and using value-added calculations on the criterion-referenced assessment

9.14.2 The initial annual report shall identify schools as being in one (1) of the following annual performance category levels, based on the criterion-referenced Benchmark exams, as defined in 6-15-404(g) (1), and defined according to rules of the State Board of Education:

(1) "Level 5", schools of excellence;
(2) "Level 4", schools exceeding the standards;
(3) "Level 3", schools meeting the standards;
(4) "Level 2", schools on alert; or
(5) "Level 1", schools in need of immediate improvement.

9.15 For the years 2004-2005 through 2008-2009, school will not be assigned annual school performance category levels, unless an annual performance category levels is requested by the school.

9.16 Annual School Performance Rating: Weighted Average Approach

9.16.1 Since the ACTAAP testing program in Arkansas was designed as a criterion-referenced assessment system with performance standards, the standards for student performance can be used to develop a rating index of school performance.

9.16.2 Numerical values to be used as weighting factors can be assigned to each students' performance category (Advanced = 4; Proficient = 3; Basic = 2; Below Basic = 1)

9.16.3 With these weights assigned to the performance levels, a performance index for the school can be computed by multiplying the weights of the performance levels times the number of students scoring in the performance category.

9.16.4 The sum of the weighted student performance for each subject and grade in the school is divided by the total number of students testing the subjects and grades. The resulting average for the school is an index of performance that will range between 1.0 and 4.0.

9.17 Achievement Rating Weighted Average Approach

9.17.1 Assigned the following points:

4 points per student scoring in the advanced category,
3 points per student scoring in the proficient category;
2 points per student scoring in the basic category,
1 point per student scoring in the below basic category.

Points = Number of student scoring in category X points assigned to categories

9.17.2 Example

Number of Students	Scoring Category	Points Assigned to Categories	Total
10	Advanced	4	40
30	Proficient	3	90
40	Basic	2	80
20	Below Basic	1	20
Total points for the school for all categories			230

9.18 Achievement Rating: Weighted Average Approach Calculation

9.18.1 To calculate the rating score for each school, divide the total point for the school by the number of students in the school.

Points Received	Number of Students	Rating
230	100	2.3

9.18.2 At the direction of the state board, a panel of stakeholders was convened to review the statewide performance of schools and conduct the standard setting process. In the school standard setting process, stakeholders representing administrators, teachers, business, parents, and school board members served as panelists to decide on the quality level represented by various points within the distribution of school index scores. The state board reviewed and adopted the following standards recommended by the stakeholder's advisory panels for the annual performance rating.

Standard Setting Recommendations Stakeholder Advisory Panels				
Cut Scores	**Cut 1/2**	**Cut 2/3**	**Cut 3/4**	**Cut 4/5**
Administrators	1.7	2.19	2.76	3.02
Teachers	1.6	2.25	3.0	3.5
Business	1.735	2.145	2.7	3.365
Parents	1.75	2.2	2.65	3.0
School Board	1.81	2.30	2.87	3.30
Median	1.735	2.2	2.755	3.300
Average	**1.719**	**2.21**	**2.79**	**3.23**

9.18.3 After the rating score has been calculated for each school, schools may calculate their annual performance level by locating the established performance standard (cut score) for placing each school in one of five performance categories.

9.18.4 In the example below, if the rating score of the school is between 3.5 and 4.0, it will be in the "schools of excellence" performance category level.

Expert Panel Cut Scores	Performance Categories
3.23 – 4.0	Schools of excellence
2.79 – 3.22	Schools exceeding the standards
2.21 – 2.78	Schools meeting standards
1.719 – 2.20	Schools approaching the standards (alert)
1.0 – 1.718	Schools in need of immediate improvement

9.18.5 The second category, growth, available in 2007-2008, shall be based on the schools' improvement gains tracked longitudinally and using value-added calculations on the criterion-referenced assessment. The working taskforce shall continue to assist in the rating system during the establishment of the second category.

9.19 School Choice

9.19.1 For all schools that have received an annual performance category levels of Level 1 for two (2) consecutive years, the students in these schools shall be offered the opportunity public school choice option with transportation provided pursuant to A.C.A. § 6-18-227 et seq.

9.20 Supplemental Educational Services

9.20.1 In addition, the school district board shall provide supplemental educational services, approved by the State Board, to affected students.

9.21 Recognition Awards

9.21.1 Schools that receive an annual performance category level of Level 5 or Level 4 are eligible for school recognition awards and performance-based funding pursuant to A.C.A. § 6-15-1907.

9.22 Sanctions

9.22.1 Any school or district that is involved in substantiated test security violations will not be eligible to receive the "school of excellence" performance rating.

10.0 School District Accountability

10.01 The Department annually reviews each district to determine whether it is making AYP in the following way.

10.01.1 Determine the collective status for all the schools within a district within each grade-level grouping (k-5; 6-8 and 9-12)

10.01.2 Determine the district percent of participation across each grade level group

10.01.3 Determine the district status on secondary indicator across each grade-level group.

10.01.4 A district shall be in school improvement when all levels within a district fail to meet performance standards for two consecutive years in the same subject. A district having status of School Improvement shall be removed from that status when any one level meets the performance standard for two consecutive years in that subject.

10.02 Before identifying a district for district improvement, the Department will provide the district with an opportunity to review the data on which the identification is based. The district may appeal the identification, and the Department will decide the appeal within 30 days.

10.03 Each district identified for school improvement shall within three months of identification develop or revise a district improvement plan that complies with the requirements of the No Child Left Behind Act, including the requirement that it spend not less than 10% of its Part A, Title I funds on professional development for each fiscal year in which the district is identified for improvement. The district shall initiate implementation of the plan expeditiously, but not later than the beginning of the next school year after the school year in which the district was identified for improvement. The Department will provide technical assistance to districts in developing and implementing improvement plans under this section.

10.04 Academic Distress – Procedures for Identification, Classification and Appeal of School Districts in Academic Distress

10.04.1 A school district for which 75% or more of the students completing the state's assessments perform at the below basic level shall be designated in Academic Distress. This computation shall collectively include students from each school in the district and from each grade for which a criterion-referenced assessment is given.

10.04.2 Within thirty calendar days (30) after the release of the state assessment results by the Department, the Department shall identify all school districts in Academic Distress and shall notify in writing each school district superintendent and board president via certified mail, return receipt requested.

10.04.3 A school district may appeal a determination of the Department identifying the district as an Academic Distress school district by filing an appeal in writing in the Office of the Commissioner of the Department within (30) calendar days after receiving the notification, justifying why the district should not be identified as being in Academic Distress.

10.04.4 The Board shall render a written decision of a classification on a district's appeal of identification as an Academic Distress school district within sixty (60) calendar days of the district's written request.

10.04.5 The decision of the Board shall be final with no further right of appeal, except a school district may appeal to the Circuit Court of Pulaski County pursuant to the Administrative Procedures Act, A.C. A. §25-15-201 et seq.

10.05 Time Limitation of Academic Distress Status

10.05.1 A public school district identified as in academic distress shall have no more than two (2) consecutive school years beginning on July 1 following the date of notice of identification to be removed from academic distress status.

10.05.2 The Board may at any time take enforcement action on any school district in academic distress status including, but not limited to, annexation, consolidation, or reconstitution of a school district pursuant to A.C.A. § 6-13-1401 et seq.

10.05.3 If a public school district fails to be removed from academic distress status within the allowed two (2) year time period, the Board shall annex, consolidate or reconstitute the academic distress school district prior to July 1 of the next school year unless the Board, at its discretion, issues a written finding supported by a majority of the board, explaining in detail that the school district could not remove itself from academic distress during the relevant time period due to external forces beyond the school district's control.

10.06 Procedures for assisting school districts in academic distress

10.06.1 Within thirty (30) calendar days of classification by the State Board, each Academic Distress school district shall develop and file with the Department a modified Comprehensive School Improvement Plan to target and address any area in which the district is experiencing academic distress.

10.06.2 Within fifteen (15) calendar days of classification by the State Board, the Department shall assign a team of educators to evaluate the district and determine the need for on-site technical assistance.

10.06.3 The team of educators shall evaluate and make recommendations to the district superintendent within sixty (60) calendar days following the district's classification as an Academic Distress school district.

10.06.4 School districts classified as Academic Distress shall provide access to all district assessment, instruction, personnel and academic records and reports to assist the team in the formulation of the recommendations for improvement.

10.06.5 The Department with assistance from the team of educators shall review the data relative to the academic status and performance of students in the Academic Distress school district.

10.06.6 Following the on-site review, the team of educators will submit a written set of recommendations to the Academic Distress school district.

10.06.7 The Department shall provide relevant technical assistance to each identified school district based upon the needs identified in the Comprehensive School Improvement Plan.

10.08 Procedures for evaluating and removal of school districts from academic distress status

10.08.1 The Department shall review and annually report to the Board the academic conditions existing in each Academic Distress school district and determine whether the district is making progress and has fewer than 75% of the students performing in the below basic performance level.

10.08.2 A school district designated in Academic Distress shall be removed from Academic Distress only if fewer than 75% of the students perform below basic for two consecutive years.

11.0 Board Authority

11.01 The Board shall have the following authority regarding any public school district in academic distress:

11.01.1 Require the superintendent of the school district to relinquish all authority with respect to the district, to appoint an individual to administratively operate the district under the supervision of the Commissioner of the Department, with the cost to be paid from school district funding;

11.01.2 Suspend or remove some or all of the current board of directors and call for the election of a new school board for the school district in which case the school district shall reimburse the county board of election commissioners for election costs as otherwise required by law.

11.01.3 Allow the school district to operate without the local school board under the supervision of the local school district

administration or an administration chosen by the Commissioner of the Department.

11.01.4 Waive the application of Arkansas law, with the exception of the Teacher Fair Dismissal Act of 1983, A.C.A. § 6-17-1501 et seq., and the Public school Employee Fair Hearing Act, A.C.A. § 6-17-1701 et seq., or Department Rules.

11.01.5 The Board has exclusive jurisdiction to determine the boundary lines of the receiving or resulting school district and to allocate assets and liability of the district.

11.01.6 Require the annexation, consolidation, or reconstitution of the public school district.

11.01.7 Take any other necessary and proper action as determined by the Board that is allowed by law.

11.01.8 After providing thirty (30) calendar days written notice, via certified mail return receipt requested, to a school district, the Department may petition the Board or the Board on its own motion, at any time, may take action pursuant to 11.0 as allowed by Act 1467 of 2003, in order to secure and protect the best interest of students in the public school district or to secure and protect the best interest of the educational resources of the state.

11.01.9 The School District shall have a right of appeal to a public hearing before the Board after filing a written notice of appeal with the office of the Commissioner of the Department at least thirty (30) calendar days prior to the appeal hearing.

11.01.10 The State Board shall consolidate, annex or reconstitute a school district that fails to remove itself from the classification of a school district in academic distress within two (2) consecutive school years of receipt of notice of identification unless the Board, at its discretion, issues a written finding supported by a majority of the Board, explaining in detail that the school district could not remove itself from academic distress due to impossibility caused by external forces beyond the school district's control.

11.01.11 After a public hearing, the Board shall consolidate, annex, or reconstitute the school district in academic distress to another non-academic distress school district upon a majority vote of a quorum of the members of the Board as permitted or required by this subchapter.

11.01.12 The Board's classification of a school district in Academic Distress shall be final except that the school district shall have a right of appeal to the Circuit Court of Pulaski County

pursuant to the Arkansas Administrative Procedures Act, A.C.A. § 25-15-201 et seq.

12.0 School Choice and Academic Distress

12.01 Any student attending a public school district classified as being in academic distress shall automatically be eligible and entitled pursuant to A.C.A. § 6-18-206, the “Arkansas Public School Choice Act”, to transfer to another geographically contiguous school district not in academic distress during the time period a district is classified as being in academic distress, and therefore, not be required to file a petition by July 1 but shall meet all other requirements and conditions of the Arkansas Public School Choice Act.

12.02 The cost of student transportation to the nonresident district shall be borne by the resident district.

12.03 The nonresident district shall count the student for average daily membership purposes.