

ARKANSAS DEPARTMENT OF EDUCATION
EMERGENCY RULES GOVERNING PUBLIC CHARTER SCHOOLS
August 12, 2013

1.00 REGULATORY AUTHORITY AND PURPOSE

- 1.01 These rules shall be known as the Arkansas Department of Education Rules Governing Public Charter Schools.
- 1.02 The State Board of Education enacted these rules pursuant to its authority as set forth in Ark. Code Ann. §§ 6-11-105, 6-23-101 et seq., 25-15-201 et seq., and ~~Acts 987, 989, and 993 of 2011~~ Act 509 of 2013.

2.00 LEGISLATIVE AND REGULATORY INTENT

- 2.01 It is the intent of the Arkansas General Assembly, and of these rules, to provide opportunities for teachers, parents, pupils, and community members to establish and maintain public schools that operate independently from the existing structure of local school districts as a method to accomplish the following:
- 2.01.1 Improve student learning;
- 2.01.2 Increase learning opportunities for all students, with special emphasis on expanding learning experiences for students who are identified as low-achieving;
- 2.01.3 Encourage the use of different and innovative teaching methods;
- 2.01.4 Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site;
- 2.01.5 Provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system; and
- 2.01.6 Hold the schools established under this chapter accountable for meeting measurable student achievement standards.

Source: Ark. Code Ann. § 6-23-102

3.00 DEFINITIONS

- 3.01 “Academic Eligibility” means qualified for selection or admission based upon academic performance.
- 3.02 “Affected School District” means each public school district from which an open-enrollment public charter school is expected to draw students for the purposes of enrollment; the public school district in which the open-enrollment public charter school will be located; and each public school district that is contiguous to the public school district in which the open-enrollment public charter school will be located.
- 3.03 “Athletic Eligibility” means qualified for selection or admission based upon athletic performance or upon athletic eligibility requirements set forth by the Arkansas Activities Association.
- 3.04 “Application” means the proposal by a public school district or eligible entity for obtaining conversion public charter school status, open-enrollment public charter school status, or limited public charter school status. *Source: Ark. Code Ann. § 6-23-103(1)*
- 3.05 “Authorizer” means an entity that authorizes a charter, which may be either the:
- 3.05.1 Department of Education; or
- 3.05.2 State Board of Education acting under Ark. Code Ann. § 6-23-703 and Section 10.0 of these rules. Source: Act 509 of 2013
- 3.05~~6~~ “Average daily membership” means the total number of days of school attended plus the total number of days absent by students in kindergarten through grade twelve (K-12) during the first three (3) quarters of each school year divided by the number of school days actually taught in the school district during that period of time rounded up to the nearest hundredth. Open-enrollment public charter school students who are enrolled in a curriculum that fulfills the requirements established by the State Board of Education under the Standards for Accreditation of Arkansas Public Schools and School Districts may be counted for average daily membership. *Source: Current rule as modified by Ark. Code Ann. § 6-20-2303(3).*

3.067 “Charter,” or “charter contract” means a performance-based contract for an initial five-year period between the ~~State Board of Education~~ authorizer and an approved applicant for public charter school status that exempts the public charter school from state and local rules, regulations, policies, and procedures specified in the contract and from the provisions of Title 6 of the Arkansas Code specified in the contract. *Source: Ark. Code Ann. § 6-23-103(2).* The initial charter or charter contract may be renewed as set forth in these rules. For the purposes of these rules, the initial five-year period of a charter begins to run on the July 1 following approval of the charter unless otherwise specified by the ~~State Board~~ authorizer. The period for any subsequent renewal of an initial charter shall begin to run on the July 1 following approval of the renewal.

3.078 “Conversion public charter school” means a public school that has converted to operating under the terms of a charter approved by the local school board and the ~~State Board of Education~~ authorizer. *Source: Ark. Code Ann. § 6-23-103(3).*

3.089 “Debt” means any financial obligation incurred by a public charter school which will not be paid in full within 365 days from the date on which the financial obligation is incurred. *Source: Current rule as modified herein.*

3.0910 “Eligible entity” means:

3.0910.1 A public institution of higher education;

3.0910.2 A private nonsectarian institution of higher education;

3.0910.3 A governmental entity; or

3.0910.4 An organization that:

3.0910.4.1 Is nonsectarian in its program, admissions policies, employment practices, and operations, and

3.0910.4.2 Has applied for tax-exempt status under § 501(c)(3) of the Internal Revenue Code of 1986. The eligible entity must obtain status as a tax-exempt organization under § 501(c)(3) of the Internal Revenue Code of 1986 prior to the first day of its operation with students.

Source: Ark. Code Ann. § 6-23-103(4).

3.4011 “Founding member” means any individual who is either:

- 3.4011.1 A member or an employee of the eligible entity applying for the initial charter for an open-enrollment public charter school; or
- 3.4011.2 A member of the initial governing nonadvisory board of the open-enrollment public charter school.

Source: Ark. Code Ann. § 6-23-103(5).

3.4112 “Letter of Intent” means a written notice submitted to the Department of Education Charter School Office that a public school district or an eligible entity intends to file a charter school application. The letter of intent shall be submitted by the established deadline on forms provided by the Department of Education.

Source: Current rule.

3.4213 “Limited Public Charter School” means a public school that has converted to operating under the terms of a limited public charter approved by the local school board and the ~~State Board~~ authorizer. *Source: Ark. Code Ann. § 6-23-103(6).*

3.4314 “License” means the authority granted by the ~~State Board of Education~~ authorizer to an already-existing open-enrollment public charter sponsoring entity for the purpose of establishing another open-enrollment public charter school(s) provided the applicant for a charter license(s) meets the following minimum conditions: (1) maintains an existing open-enrollment public charter school charter from the ~~State Board of Education~~ authorizer; and (2) meets the requirements of Section 6.05 of these rules. *Source: Current rule and Ark. Code Ann. § 6-23-304.*

3.4415 “Local school board” means a board of directors exercising the control and management of a public school district. For the purposes of these rules, “local school board” also refers to the board of directors of a school district where a public charter school will be physically located. *Source: Current rule and Ark. Code Ann. § 6-23-103(7).*

3.4516 “Net assets” refers to the status of particular items upon the occurrence of the dissolution, nonrenewal, or revocation of the charter, with the purpose being to identify publicly-funded unencumbered assets as property of the state at that point. Specifically, “net assets” refer to any unencumbered asset for which public funds were spent. *Source: Attorney General Opinion No. 2007-204*

~~3.16~~17 “Open-enrollment public charter school” means a public school that:

- ~~3.16~~17.1 Is operating under the terms of a charter granted by the ~~State Board of Education~~ authorizer on the application of an eligible entity;
- ~~3.16~~17.2 May draw its students from any public school district in this state; and
- ~~3.16~~17.3 Is a local educational agency under the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 7801, as it existed on April 10, 2009.
- ~~3.16~~17.4 “Open-enrollment public charter school” also possesses the same meaning as given the term “charter school” in the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 7221i, as it existed on April 10, 2009.

Source: Ark. Code Ann. § 6-23-103(8).

~~3.17~~18 “Parent” means any parent, legal guardian, or other person having custody or charge of a school-age child. *Source: Ark. Code Ann. § 6-23-103(9).*

~~3.18~~19 “Public school” means a school that is part of a public school district under the control and management of a local school board. *Source: Ark. Code Ann. § 6-23-103(10).*

~~3.19~~20 “Public charter school” means a conversion public charter school, an open-enrollment public charter school, or a limited public charter school. *Source: Ark. Code Ann. § 6-23-103(11).*

~~3.20~~21 “Sectarian” means of or relating to a particular religious sect. *Source: Black’s Law Dictionary, 8th Ed., 2004.*

~~3.21~~22 “Short-term Line of Credit” means any financial obligation or obligations incurred by a public charter school as the result of an agreement by a lender or potential creditor to advance funds of ten thousand dollars (\$10,000.00) or more in the form of:

- 3.2122.1 A loan (or combination of loans) that is payable in full in less than three hundred sixty-five (365) days from the date on which the financial obligation is incurred; or
- 3.2122.2 A loan (or combination of loans) that does not define a date certain at which the loan is payable in full.

4.00 RULES APPLICABLE TO ALL PUBLIC CHARTER SCHOOLS

4.01 Charter Form for Public Charter Schools – Requirements – Revision

4.01.1 A charter for a public charter school shall:

- 4.01.1.1 Be in the form of a written contract signed by the ~~Chair of the State Board~~ Commissioner of Education and the chief operating officer of the public charter school;
- 4.01.1.2 Satisfy the requirements of Title 6, Chapter 23 of the Arkansas Code and of these rules; and
- 4.01.1.3 Ensure that the information required under Ark. Code Ann. § 6-23-404 is consistent with the information provided in the application and any modification that the ~~State Board of Education~~ authorizer may require.

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

Source: Ark. Code Ann. § 6-23-104

4.02 ~~State Board~~ Authorizer Hearing Notice Requirements

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

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

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

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

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

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

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

4.02.6 Under circumstances involving imminent peril to the health, welfare, or safety of students, or under circumstances that may negatively impact the continuation of educational services offered by the public charter school, and upon written request from the public charter school, the Commissioner of Education or his or her designee may waive the thirty-five (35) day deadline set forth in Sections 4.02.2 through Sections 4.02.5 of these rules. The decision of whether to grant such a waiver is within the sole discretion of the Commissioner of Education or his or her designee. If the Commissioner of Education, or his or her designee, grants such a waiver, he or she shall also adjust the resulting deadlines for local school districts and Department of Education staff contained in Sections 4.04.5 and 4.04.6 of these rules.

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

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

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

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

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

- 4.03.1.4 Failed to meet academic or fiscal performance criteria deemed appropriate and relevant for the public charter school by the ~~State Board~~ authorizer.
- 4.03.1.5 Pursuant to the federal mandate contained in P.L. 111-117, 123 Stat. 3264, the ~~State Board~~ authorizer will consider increases in student academic achievement for all groups of students described in Section 1111 (b)(2)(C)(v) of the Elementary and Secondary Education Act as a primary factor in determining whether to non-renew or revoke a public charter school's charter. However, any one of the circumstances listed in Sections 4.03.1.1 through 4.03.1.4 of these rules may be reason enough to non-renew or revoke a public charter school's charter.
- 4.03.2 Any action the ~~State Board~~ authorizer may take under Ark. Code Ann. § 6-23-105 and Section 4.02 of these rules shall be based on the best interests of the public charter school's students, the severity of the violation, and any previous violation the public charter school may have committed.
- 4.03.3 The ~~State Board's~~ authorizer's procedures for placing a public charter school on probation or modifying, revoking, or denying renewal of the school's charter can be found in these rules as follows:
 - 4.03.3.1 Conversion public charter schools: Section 5.07
 - 4.03.3.2 Open-enrollment public charter schools: Section 6.24
 - 4.03.3.3 Limited public charter schools: Section 7.12
- 4.03.4 There is no further right of appeal beyond the determination of the ~~State Board~~ authorizer except as set forth in Sections 9.00 and 10.00 of these Rules.
- 4.03.5 The Arkansas Administrative Procedure Act, § 25-15-201 et seq., shall not apply to any hearing concerning a public charter school.

Source: Ark. Code Ann. § 6-23-105.

4.04 Impact on School Desegregation Efforts

- 4.04.1 The applicants for a public charter school, the local school board for the district in which the proposed public charter school would be located, and the ~~State Board~~ authorizer shall carefully review the potential impact of an application for a public charter school on the efforts of a public school district or public school districts to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools.
- 4.04.2 The ~~State Board~~ authorizer shall attempt to measure the likely impact of a proposed public charter school on the efforts of public school districts to achieve and maintain a unitary system.
- 4.04.3 The ~~State Board~~ authorizer shall not approve any public charter school under Title 6, Chapter 23, or any other act or any combination of acts that hampers, delays, or in any manner negatively affects the desegregation efforts of a public school district or public school districts in this state.
- 4.04.4 A public charter school or applicant shall provide to the Department of Education, with a copy to the local school board for the school district in which the public charter school is or will be located, a desegregation analysis carefully reviewing the potential impact of the public charter school's application or request on the efforts of a public school district or public school districts to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools:
- 4.04.4.1 In its application for a public charter school charter;
 - 4.04.4.2 In its renewal request for its existing public charter school charter;
 - 4.04.4.3 In its request to change the physical location of its existing charter school if required by the Commissioner of Education in accordance with Section 4.02.3 of these rules;
 - 4.04.4.4 In any request to amend its existing charter to increase its enrollment cap or add grade levels; and

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

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

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

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

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

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

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

4.04.5.6 Failure of the local school board of the district in which the proposed public charter school will be located to submit to the Department of Education a desegregation analysis as set forth above shall result in a waiver of the local school

board's right to submit such a desegregation analysis to the ~~State Board~~ authorizer.

- 4.04.6 In accordance with Section 4.04 of these rules, the Department of Education staff shall submit to the ~~State Board~~ authorizer, with copies to the public charter school or applicant and the local school board of the school district in which the public charter school is or will be located, a desegregation analysis:
- 4.04.6.1 Not later than ten (10) days prior to the ~~State Board's~~ authorizer's consideration of an application of a public charter school;
 - 4.04.6.2 Not later than ten (10) days prior to the ~~State Board's~~ authorizer's consideration of a proposed renewal of a public charter school;
 - 4.04.6.3 Not later than ten (10) days prior to the ~~State Board's~~ authorizer's consideration of a change in physical location of a public charter school if required by the Commissioner of Education in accordance with Section 4.02.3 of these rules;
 - 4.04.6.4 Not later than ten (10) days prior to the ~~State Board's~~ authorizer's consideration of a proposed amendment to a public charter that includes an increased enrollment cap or the addition of grade levels;
 - 4.04.6.5 Not later than ten (10) days prior to the ~~State Board's~~ authorizer's consideration of a proposed license for an existing open-enrollment public charter school; and
 - 4.04.6.5 At any other time as directed by the ~~State Board~~ authorizer or the Commissioner of Education.
 - 4.04.6.6 The Department of Education's desegregation analysis will include as attachments the desegregation analyses provided

by the applicant or public charter school and the local school board in which the public charter school is or will be located.

Source: Ark. Code Ann. § 6-23-106.

4.05 Observance of Anti-Discrimination Laws

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

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

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

Source: Current rules as modified.

4.06 Reporting Requirements

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

4.06.1.1 The number of applications for enrollment received;

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

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

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

- 4.06.2.1 The number of students in each of the following categories:
- 4.06.2.1.1 Students who dropped out of the public charter school during the school year;
 - 4.06.2.1.2 Students who were expelled during the school year by the public charter school;
 - 4.06.2.1.3 Students who were enrolled in the public charter school but for a reason other than those cited under Sections 4.06.2.1.1 and 4.06.2.1.2 did not complete the school year at the public charter school;
 - 4.06.2.1.4 Students identified in Sections 4.06.2.1.1 through 4.06.2.1.3 who transferred to another open-enrollment public charter school;
 - 4.06.2.1.5 Students identified in Sections 4.06.2.1.1 through 4.06.2.1.3 who transferred to a private school;
 - 4.06.2.1.6 Students identified in Sections 4.06.2.1.1 through 4.06.2.1.3 who transferred to a home school;
 - 4.06.2.1.7 Students identified in Sections 4.06.2.1.1 through 4.06.2.1.3 who transferred to a school outside of Arkansas; and
 - 4.06.2.1.8 Students identified in Sections 4.06.2.1.1 through 4.06.2.1.3 who transferred to a traditional public school district within Arkansas.
 - 4.06.2.1.9 The report shall identify the dates of transfer for all students identified in Section 4.06.2.1.8.

- 4.06.2.2 For all students enrolled in the public charter school, the scores for assessments required under the Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, § 6-15-401 et seq., including without limitation benchmark assessments and end-of-course assessments
- 4.06.2.3 If there is any discrepancy in the number of students for whom scores are reported under Section 4.06.2.2 of these rules, and the number of students enrolled at the beginning of the school year, the public charter school shall explain in the report the reason for the discrepancy.
- 4.06.3 The Department of Education shall not exempt a public charter school from the reporting required under Section 4.06 of these rules.
- 4.06.4 The Department of Education shall publish a copy of each report on the department's website.
- 4.06.5 If a public charter school fails to comply with Ark. Code Ann. § 6-23-107 and Section 4.06 of these rules, the Department of Education shall note the failure in the annual evaluation of the public charter school.
- 4.06.6 Every public charter school shall furnish any other information, record, or report requested by the Department of Education Charter School Office unless disclosure of the information, record, or report is explicitly prohibited by court order or by federal or state law.
- 4.06.7 The Department of Education Charter School Office shall, at least annually, post on the Department of Education's website a list of deadlines for which legally required reports are due from the public charter school to the Department of Education.

Source: Ark. Code Ann. § 6-23-107 – Act 993 of 2011.

- 4.07 Public Charter Schools Receiving Federal Dissemination Grants from the Arkansas Department of Education
- 4.07.1 Public Charter Schools that receive federal dissemination grant funds from the Department of Education shall, by July 1 of each year, provide the Department of Education Charter School Office with a list of the public charter school's best or promising practices in accordance with their approved dissemination grant applications.
- 4.07.2 By August 1 of each year, the Department of Education Charter School Office will post a link of each public charter school's best or promising practices on the Department of Education's website.
- 4.08 Application Process, Schedule and Forms
- 4.08.1 A procedure for establishing a public charter school shall be published by the Department of Education as approved by the State Board.
- 4.08.2 All dates and requirements listed in the procedures for establishing a public charter school shall be strictly followed by the public charter school applicant.
- 4.08.3 If all dates and requirements listed in the procedures for establishing a public charter school are not strictly followed by the public charter school applicant, the ~~State Board~~ authorizer may refuse to consider the application.
- 4.08.4 Application forms and other documents needed for the public charter school application process shall be provided by the Arkansas Department of Education Charter School Office and are incorporated into these rules as if fully set forth herein.
- 4.08.5 Any requests for technical assistance by a charter applicant shall be made to the Arkansas Department of Education Charter School Office.
- 4.08.6 Letter of Intent: Each public charter school letter of intent shall be submitted by the potential applicant by certified mail, ~~or~~ hand delivery or by electronic means and must be received by the Department of Education Charter School Office on or before the established deadline. The

Department of Education Charter School Office may refuse to process or review any letter of intent not received by the established deadline.

4.08.7 Charter Application: Each public charter school application shall be submitted by the applicant by certified mail, ~~or~~ hand delivery or by electronic means and must be received by the Department of Education Charter School Office on or before the established deadline. The Department of Education Charter School Office may refuse to process or review any application not received by the established deadline.

4.08.8 The Department of Education shall review the application for a public charter school and present to the ~~State Board~~ authorizer a written evaluation of the application. The Department's evaluation shall be sent to the public charter school applicant.

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

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

5.00 RULES APPLICABLE TO CONVERSION PUBLIC CHARTER SCHOOLS

5.01 Application for Conversion Public Charter School Status

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

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

5.01.2.1 Adopting research-based school or instructional designs, or both, that focus on improving student and school performance;

5.01.2.2 Addressing school improvement status resulting from sanctions listed in Ark. Code Ann. §§ 6-15-207(c)(8) and 6-15-429(a) and (b); or

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

5.01.3 An application for a conversion public charter school shall:

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

5.01.3.2 Notice of the public hearing shall be:

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

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

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

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

5.01.3.5 Describe how the licensed employees and parents of the students to be enrolled in the conversion public charter

school will be involved in developing and implementing the school improvement plan and identifying performance criteria;

5.01.3.6 Describe how the concerns of licensed employees and parents of students enrolled in the conversion public charter school will be solicited and addressed in evaluating the effectiveness of the improvement plan; and

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

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

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

Source: Ark. Code Ann. § 6-23-201.

5.02 Authorization for Conversion Public Charter School Status

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

- 5.02.1.1 Provides a plan for improvement at the school level for improving student learning and for meeting or exceeding the state education goals;
- 5.02.1.2 Includes a set of performance-based objectives and student achievement objectives for the term of the charter and the means for measuring those objectives on at least a yearly basis;
- 5.02.1.3 Includes a proposal to directly and substantially involve the parents of students to be enrolled in the conversion public charter school, as well as the licensed employees and the broader community, in the process of carrying out the terms of the charter; and
- 5.02.1.4 Includes an agreement to provide a yearly report to parents, the community, the local school board, and the ~~State Board~~ authorizer that indicates the progress made by the conversion public charter school in meeting the performance objectives during the previous year.

Source: Ark. Code Ann. § 6-23-202.

5.03 Resubmission of Conversion Public Charter School Applications

- 5.03.1 The ~~State Board~~ authorizer may allow applicants to resubmit applications for conversion public charter school status if the original application was, in the opinion of the ~~State Board~~ authorizer, deficient in one (1) or more respects.
- 5.03.2 The Department of Education may provide technical assistance to the conversion public charter school applicants in the creation or modification of these applications.

Source: Ark. Code Ann. § 6-23-203

- 5.04 Public Conversion Charter School Renewal: The ~~State Board~~ authorizer is authorized to renew charters of conversion public charter schools on a one-year or

multiyear basis, not to exceed five (5) years, after the initial five-year period if the renewal is approved by the local school board.

Source: Ark. Code Ann. § 6-23-204

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

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

5.06.1 All persons, with the exception of the attorneys representing the parties, who plan to provide testimony during the hearing must be sworn by a certified court reporter.

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

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

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

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

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

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

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

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

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

5.07.2 All persons, with the exception of the attorneys representing the parties, who plan to provide testimony during the hearing must be sworn by a certified court reporter.

5.07.3 Arkansas Department of Education staff shall have twenty (20) minutes to present its case to the ~~State Board~~ authorizer for modification, probation, or revocation of a conversion public charter school charter. The Chair of the ~~State Board~~ authorizing body may grant additional time, if necessary.

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

5.07.5 The ~~State Board~~ authorizer will follow the presentation with discussion of the matter and questions, if any, to representatives from the Department of Education, the conversion public charter school, or both.

5.07.6 The ~~State Board~~ authorizer may issue a final decision at the hearing or take the matter under advisement until a future scheduled ~~board~~ meeting.

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

6.00 RULES APPLICABLE TO OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS

6.01 Application for an Open-Enrollment Public Charter School

6.01.1 Pursuant to Title 6, Chapter 23 of the Arkansas Code and these rules, an eligible entity may apply to the ~~State Board~~ authorizer to grant a charter for an open-enrollment public charter school to operate in a facility of a commercial or nonprofit entity or a public school district. As noted in Section 6.17.11 of these Rules, an open-enrollment public charter school shall have the right of first refusal to purchase or lease for fair market value a closed public school facility or unused portions of a public school facility located in a public school district from which it draws students if the public school district decides to sell or lease the public school facility.

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

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

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

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

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

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

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

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

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

6.01.6.1.2 Within seven (7) calendar days following the first publication of notice required under Section 6.01.6.1.1 of these rules, letters announcing the public hearing shall be sent to the superintendent of each of the public school districts from which the open-enrollment public charter school is likely to

draw students for the purpose of enrollment and the superintendent of any public school district that is contiguous to the public school district in which the open-enrollment public charter school will be located.

- 6.01.6.1.3 An affected school district may submit written comments concerning the application to the ~~State Board~~ authorizer to be considered at the time of the ~~State Board's authorizer's~~ review of the application.
- 6.01.6.2 Describe a plan for academic achievement that addresses how the open-enrollment public charter school will improve student learning and meet the state education goals;
- 6.01.6.3 Outline the proposed performance criteria that will be used during the initial five-year period of the open-enrollment public charter school operation to measure its progress in improving student learning and meeting or exceeding the state education goals;
- 6.01.6.4 List the specific provisions of Title 6 of the Arkansas Code and the specific rules and regulations promulgated by the State Board from which the open-enrollment public charter school seeks to be exempted;
- 6.01.6.5 Describe the facility to be used for the open-enrollment public charter school and state the facility's current use.
 - 6.01.6.5.1 If the facility to be used for an open-enrollment public charter school is a public school district facility, the open-enrollment public charter school must operate in the facility in accordance with the terms established by the local school board of the public school district in an agreement governing the relationship between the

open-enrollment public charter school and the public school district.

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

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

6.01.7 Review and Approval by the Local School Board:

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

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

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

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

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

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

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

Source: Ark. Code Ann. §§ 6-23-301 and 6-23-302 as amended by Act 993 of 2011

6.03 Authorization for an Open-Enrollment Public Charter School

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

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

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

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

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

- 6.03.1.5 Includes a detailed budget, a business plan, and a governance plan for the operation of the open-enrollment public charter school; and
- 6.03.1.6 Establishes the eligible entity's status as a tax-exempt organization under § 501(c)(3) of the Internal Revenue Code of 1986 prior to the first day of its operation with students.

Source: Ark. Code Ann. § 6-23-303

6.04 Other Application Requirements – Preference for Certain Districts

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

- 6.04.1.1 Criteria provided by law;
- 6.04.1.2 Criteria provided by rule adopted by the ~~State Board~~ authorizer under section 6.01.3 of these Rules;
- 6.04.1.3 Findings of the ~~State Board~~ authorizer relating to improving student performance and encouraging innovative programs; and
- 6.04.1.4 Written findings or statements received by the ~~State Board~~ authorizer from any public school district likely to be affected by the open-enrollment public charter school.

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

- 6.04.2.1 When the percentage of students who qualify for free or reduced-price lunches is above the average for the state;
- 6.04.2.2 When the district has been classified by the State Board as in academic distress under Ark. Code Ann. § 6-15-428; or
- 6.04.2.3 When the district has been classified by the Department of Education as in some phase of school improvement status

under Ark. Code Ann. § 6-15-426 or some phase of fiscal distress under the Arkansas Fiscal Assessment and Accountability Program, § 6-20-1901 et seq., if the fiscal distress status is a result of administrative fiscal mismanagement, as determined by the State Board.

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

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

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

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

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

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

Source: Ark. Code Ann. § 6-23-304 as amended by Act 987 of 2011

6.05 Open-Enrollment Public Charter School Licenses

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

6.05.1.1 The approved open-enrollment public charter applicant has demonstrated academic success ~~in student achievement gains~~, as defined by the State Board for all public schools;

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

6.05.1.2.1 Been subject to any disciplinary action by the ~~State Board~~ authorizer;

6.05.1.2.2 Been classified as in ~~school improvement or~~ academic or fiscal distress;

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

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

Source: Ark. Code Ann. § 6-23-304 as amended by Act 993 of 2011

6.06 Resubmission of Open-Enrollment Public Charter School Applications

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

6.06.2 The ~~State Board~~ authorizer may allow the applicant for an open-enrollment public charter school to resubmit its application if the original application was found to be deficient by the ~~State Board~~ authorizer.

6.06.3 The Department of Education may provide technical assistance to the applicant for an open-enrollment public charter school in the creation or modification of its application.

Source: Ark. Code Ann. § 6-23-305

6.07 Contents of Open-Enrollment Public Charters

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

6.07.1.1 Describe the educational program to be offered;

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

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

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

6.07.1.5 Specify any basis, in addition to a basis specified by Title 6, Chapter 23 of the Arkansas Code or Section 4.03 of these rules, on which the open-enrollment public charter

school may be placed on probation or its charter revoked or on which renewal of the open-enrollment public charter school may be denied;

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

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

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

6.07.1.6.3 The open-enrollment public charter may provide for the exclusion of a student who has been expelled from another public school district in accordance with Title 6 of the Arkansas Code.

6.07.1.7 Specify the grade levels to be offered;

6.07.1.8 Describe the governing structure of the program;

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

- 6.07.1.10 Describe the process by which the persons providing the program will adopt an annual budget;
- 6.07.1.11 Describe the manner in which the annual audit of the financial and programmatic operations of the program is to be conducted, including the manner in which the persons providing the program will provide information necessary for the public school district in which the program is located to participate;
- 6.07.1.12 Describe the facilities to be used, including the terms of the facility utilization agreement if the facility for the open-enrollment public charter school is owned or leased from a sectarian organization;
- 6.07.1.13 Describe the geographical area, public school district, or school attendance area to be served by the program;
- 6.07.1.14 Specify the methods for applying for admission, enrollment criteria, and student recruitment and selection processes.
 - 6.07.1.14.1 Except as provided in Section 6.07.1.14.2 of these rules, if more eligible students apply for a first-time admission than the open-enrollment public charter school is able to accept by the annual deadline that the open-enrollment public charter school has established for the receipt of applications for the next school year, the open-enrollment public charter must require the open-enrollment public charter school to use a random, anonymous student selection method that shall be described in the charter application.
 - 6.07.1.14.1.1 If there are still more applications for admissions than the open-enrollment public charter school is able to accept after the completion

of the random, anonymous student selection method, then the open-enrollment public charter school shall place the applicants on a waiting list for admission.

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

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

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

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

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

6.07.1.14.3.1 Federal court order; or

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

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

Source: Ark. Code Ann. § 6-23-306 as amended by Act 993 of 2011

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

Source: Ark. Code Ann. § 6-23-307 as amended by Act 993 of 2011

6.09 Priority Hiring for Teachers: If a licensed teacher employed by a public school district in the school year immediately preceding the effective date of the open-enrollment public charter is employed by an open-enrollment public charter school and the open-enrollment public charter is revoked, the licensed teacher will

receive a priority in hiring for the first available position for which the licensed teacher is qualified in the school district where the licensed teacher was formerly employed.

Source: Ark. Code Ann. § 6-23-308

6.10 Status Report: The ~~State Board~~ authorizer shall report on the status of the open-enrollment public charter school programs to the General Assembly each biennium and to the House ~~Interim~~ Committee on Education and the Senate ~~Interim~~ Committee on Education during the interim between regular sessions of the General Assembly.

Source: Ark. Code Ann. § 6-23-310

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

6.11.1 An open-enrollment public charter school:

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

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

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

6.11.1.4 Shall have no authority to impose taxes;

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

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

- 6.11.1.5.2 Under circumstances involving imminent peril to the health, welfare, or safety of students, or under circumstances that may negatively impact the continuation of educational services offered by the public charter school, and upon written request from the public charter school, the Commissioner of Education may waive the thirty (30) day deadline set forth in Section 6.11.1.5.1 of these rules. The decision of whether to grant such a waiver is within the sole discretion of the Commissioner of Education.
- 6.11.1.6 Shall not enter into any short-term line of credit, or receive any funds from a short-term line of credit, without prior notice to the Commissioner of Education;
 - 6.11.1.6.1 Notice of a short-term line of credit must identify the lender or creditor, the principal amount, the interest rate, and the payment terms;
 - 6.11.1.6.2 No public funds may be used to repay any short-term line of credit unless prior notice of the line of credit was given to and received by the Commissioner of Education;
- 6.11.1.7 Shall not charge students tuition or fees that would not be allowable charges in the public school districts; and
- 6.11.1.8 Shall not be religious in its operations or programmatic offerings.
- 6.11.2 An open-enrollment public charter school is subject to any prohibition, restriction, or requirement imposed by Title 6 of the Arkansas Code and any rule and regulation promulgated by the State Board under Title 6 of the Arkansas Code relating to:

- 6.11.2.1 Monitoring compliance with Title 6 of the Arkansas Code, as determined by the Commissioner;
- 6.11.2.2 Public school accountability under Title 6 of the Arkansas Code;
- 6.11.2.3 High school graduation requirements as established by the State Board;
- 6.11.2.4 Special education programs as provided by Title 6 of the Arkansas Code;
- 6.11.2.5 Conducting criminal background checks for employees as provided by Title 6 of the Arkansas Code;
- 6.11.2.6 Health and safety codes as established by the State Board and local governmental entities; and
- 6.11.2.7 Ethical guidelines and prohibitions as established by Ark. Code Ann. § 6-24-101 et seq., and any other controlling state or federal law regarding ethics or conflicts of interest.

Source: Ark. Code Ann. § 6-23-401

6.12 Enrollment Numbers and Deadline:

- 6.12.1 An open-enrollment public charter school may enroll a number of students not to exceed the number of students specified in its charter.
- 6.12.2 Any student enrolling in an open-enrollment public charter school shall enroll in that school by the deadline established in Ark. Code Ann. § 6-23-402 for the upcoming school year during which the student will be attending the open-enrollment public charter school.
- 6.12.3 However, if a student enrolled by the deadline established in Ark. Code Ann. § 6-23-402 should no longer choose to attend the open-enrollment public charter school or if the open-enrollment public charter school has not yet met its enrollment cap, the open-enrollment public charter school may enroll a number of replacement or additional students not to exceed the enrollment cap of the open-enrollment public charter school.

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

Source: Ark. Code Ann. § 6-23-402 as amended by Acts 989 and 993 of 2011

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

- 6.13.1 Any other provision of the Arkansas Code or these rules notwithstanding, an open-enrollment public charter school shall be subject to the same auditing and accounting requirements as any other public school district in the state.
- 6.13.2 An open-enrollment public charter school shall prepare an annual certified audit of the financial condition and transactions of the open-enrollment public charter school as of June 30 each year in accordance with auditing standards generally accepted in the United States and Government Auditing Standards issued by the Comptroller General of the United States, and containing any other data as determined by the State Board for all public schools.
- 6.13.3 If the school is an open-enrollment public charter school in its first year of operation, the Legislative Auditor shall prepare the required annual financial audit for the school unless:
- 6.13.3.1 The open-enrollment public charter school chooses to retain the services of a licensed certified public accountant in public practice in good standing with the Arkansas State Board of Public Accountancy; and
- 6.13.3.2 The ~~State Board of Education~~ authorizer approves the open-enrollment public charter school's use of an entity other than the Legislative Auditor to prepare the annual financial audit.
- 6.13.4 No open-enrollment public charter school shall engage an accountant or accounting firm to conduct any audit if the accountant or accounting firm

is listed on any ineligibility list maintained by the Department of Education or the Division of Legislative Audit.

Source: Ark. Code Ann. §§ 6-23-403, 6-23-505, and 10-4-413 as amended by Act 993 of 2011.

6.14 Evaluation of Open-Enrollment Public Charter Schools:

6.14.1 The Department of Education shall cause to be conducted an annual evaluation of open-enrollment public charter schools.

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

6.14.2.1 Student scores under the statewide assessment program described in Ark. Code Ann. § 6-15-433;

6.14.2.2 Student attendance;

6.14.2.3 Student grades;

6.14.2.4 Incidents involving student discipline;

6.14.2.5 Socioeconomic data on students' families;

6.14.2.6 Parental satisfaction with the schools;

6.14.2.7 Student satisfaction with the schools; and

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

6.14.3 The ~~State Board~~ authorizer may require the charter holder to appear before the ~~State Board~~ authorizer to discuss the results of the evaluation and to present further information to the ~~State Board~~ authorizer as the ~~Department of Education or the State Board~~ authorizer deems necessary.

Source: Ark. Code Ann. § 6-23-404 as amended by Act 993 of 2011

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

Source: Ark. Code Ann. § 6-23-405 as added by Act 993 of 2011

- 6.16 Department of Education Review: The Department of Education shall:
- 6.16.1 Conduct an end-of-semester review of each open-enrollment public charter school that is in its initial school year of operation at the end of the first semester and at the end of the school year; and
 - 6.16.2 Report to the State Board and the Commissioner of Education on the open-enrollment public charter school's:
 - 6.16.2.1 Overall financial condition; and
 - 6.16.2.2 Overall condition of student enrollment.

Source: Ark. Code Ann. § 6-23-406 as added by Act 993 of 2011

- 6.17 Funding for Open-Enrollment Public Charter Schools
- 6.17.1 An open-enrollment public charter school shall receive funds equal to the amount that a public school would receive under Ark. Code Ann. § 6-20-2305(a) and (b) as well as any other funding that a public charter school is entitled to receive under law or under rules promulgated by the State Board.
 - 6.17.2 For the first year of operation and any year the open-enrollment public charter school adds a new grade, the foundation funding for an open-enrollment public charter school is determined as follows:
 - 6.17.2.1 The initial funding estimate shall be based on enrollment as of the deadline established by Ark. Code Ann. § 6-23-501;
 - 6.17.2.2 In December, funding will be adjusted based upon the first quarter average daily membership; and

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

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

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

6.17.4.1 For the first year of operation and in any year when a grade is added, free or reduced-price meal eligibility data as reported by October 1 of the current school year will be used to calculate the national school lunch state categorical funding under the State Board rules governing special needs funding; and

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

6.17.5 Professional development funding under Ark. Code Ann. § 6-20-2305(b)(5) shall be provided to an open-enrollment public charter school for the first year of operation and in any year in which a grade is added as follows:

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

- 6.17.5.2 For the second year and each school year thereafter, professional development funding will be based upon the previous year's average daily membership multiplied by the per-student professional development funding amount for that school year.
- 6.17.6 The Department of Education shall distribute other categorical funding under Ark. Code Ann. § 6-20-2305(a) and (b) for which an open-enrollment public charter school is eligible as provided by state law and rules promulgated by the State Board.
- 6.17.7 An open-enrollment public charter school shall not be denied foundation funding or categorical funding in the first year or any year of operation provided that the open-enrollment public charter school submits to the Department of Education the number of students eligible for funding as specified in applicable rules.
- 6.17.8 Foundation funding for an open-enrollment public charter school shall be paid in twelve (12) installments each fiscal year.
- 6.17.9 An open-enrollment public charter school may receive any state and federal aids, grants, and revenue as may be provided by law.
- 6.17.10 Open-enrollment public charter schools may receive gifts and grants from private sources in whatever manner is available to public school districts.
- 6.17.11 An open-enrollment public charter school shall have a right of first refusal to purchase or lease for fair market value a closed public school facility or unused portions of a public school facility located in a public school district from which it draws students if the public school district decides to sell or lease the public school facility.
- 6.17.11.1 The public school district may not require lease payments that exceed the fair market value of the property.
- 6.17.11.2 The application of this Section 6.17.11 is subject to the rights of a repurchase under Ark. Code Ann. § 6-13-103 regarding property taken by eminent domain.

- 6.17.11.3 A public school district is exempt from the requirements of this Section 6.17.11 if the public school district, through an open bid process, receives and accepts an offer to lease or purchase the property from a purchaser other than the open-enrollment public charter school for an amount that exceeds the fair market value.
- 6.17.11.4 The purposes of this Section 6.17.11 are to:
 - 6.17.11.4.1 Acknowledge that taxpayers intended a public school facility to be used as a public school; and
 - 6.17.11.4.2 Preserve the option to continue that use.
- 6.17.11.5 Nothing in this Section 6.17.11 is intended to diminish the opportunity for an Arkansas Better Chance program to bid on the purchase or lease of the public school facility on an equal basis as the open-enrollment public charter school.

Source: Ark. Code Ann. § 6-23-501 as amended by Acts 989 and 993 of 2011

6.18 Source of Funding for Open-Enrollment Public Charter Schools

- 6.18.1 Open-enrollment public charter schools shall be funded each year through funds set aside from funds appropriated to state foundation funding aid in the Public School Fund.
- 6.18.2 The amount set aside shall be determined by the State Board.

Source: Ark. Code Ann. § 6-23-502

6.19 Use of Funding by Open-Enrollment Public Charter Schools

- 6.19.1 An open-enrollment public charter school may not use the moneys that it receives from the state for any sectarian program or activity or as collateral for debt.
- 6.19.2 No indebtedness of any kind incurred or created by the open-enrollment public charter school shall constitute an indebtedness of the state or its political subdivisions, and no indebtedness of the open-enrollment public

charter school shall involve or be secured by the faith, credit, or taxing power of the state or its political subdivisions.

- 6.19.3 Every contract or lease into which an open-enrollment public charter school enters shall include the wording of Section 6.19.2 of these rules.

Source: Ark. Code Ann. § 6-23-503

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

Source: Ark. Code Ann. § 6-23-504

6.21 Deposit and Management of Charter School Funds

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

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

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

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

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

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

unless otherwise specified in the charter of the open-enrollment public charter school.

- 6.22.2 If the open-enrollment public charter school used state funds to purchase or finance personal property, real property, or fixtures for use by the open-enrollment public charter school, the ~~State Board~~ Department of Education may require that the property be sold.
- 6.22.3 The state has a perfected priority security interest in the net proceeds from the sale or liquidation of the property to the extent of the public funds used in the purchase.

Source: Ark. Code Ann. § 6-23-506

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

- 6.23.1 All persons, with the exception of the attorneys representing the parties, who plan to provide testimony during the hearing must be sworn by a certified court reporter.
- 6.23.2 The open-enrollment public charter school or applicant shall have twenty (20) minutes to present its case to the ~~State Board~~ authorizer for approval of the proposed open-enrollment public charter school application, renewal, or request. The Chair of the ~~State Board~~ authorizing body may grant additional time, if necessary.
- 6.23.3 Parties opposed to the open-enrollment public charter school application, renewal, or request, if any, shall have twenty (20) minutes to present its case to the ~~State Board~~ authorizer for disapproval of the proposed open-enrollment public charter school application, renewal, or request. The Chair of the ~~State Board~~ authorizing body may grant additional time, if necessary.
- 6.23.4 The open-enrollment public charter school or applicant shall have five (5) minutes to respond to any arguments in opposition to the open-enrollment public charter school application, renewal, or request. The Chair of the ~~State Board~~ authorizing body may grant additional time, if necessary.

- 6.23.5 The ~~State Board~~ authorizer will follow the presentation with discussion of the open-enrollment public charter school application, renewal, or request, and questions, if any, to the open-enrollment public charter school or applicant, opposing parties, or both.
- 6.23.6 The ~~State Board~~ authorizer may issue a final decision at the hearing or take the matter under advisement until a future scheduled ~~board~~ meeting.
- 6.23.7 The ~~State Board~~ authorizer may defer the vote to approve or disapprove a charter application, renewal, or request in order to allow a public charter school or applicant to make modifications or receive technical assistance to correct deficiencies in the application, renewal, or request.
- 6.23.8 During the roll call vote on each open-enrollment public charter initial application, if a particular ~~State Board~~ member of the authorizing body votes against the initial application, that ~~State Board~~ member should state his or her reasons for disapproval as necessary to comply with Ark. Code Ann. § 6-23-305.

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

- 6.24 ~~State Board~~ Authorizer Hearing Procedures Related to Open-Enrollment Public Charter Schools (~~State Board~~ Modification, Probation or Revocation of Charter)
- 6.24.1 Not later than twenty (20) days prior to the ~~State Board~~ authorizer meeting at which the matter of modification, probation or revocation will be considered, the Department of Education shall provide written notice of the reason(s) for the proposed action, as well as of the time and location of such hearing, to the open-enrollment public charter school.
- 6.24.2 All persons, with the exception of the attorneys representing the parties, who plan to provide testimony during the hearing must be sworn by a certified court reporter.
- 6.24.3 Arkansas Department of Education staff shall have twenty (20) minutes to present its case to the ~~State Board~~ authorizer for modification, probation, or revocation of an open-enrollment public charter school charter. The

Chair of the ~~State Board~~ authorizing body may grant additional time, if necessary.

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

6.24.5 The ~~State Board~~ authorizer will follow the presentation with discussion of the matter and questions, if any, to representatives from the Department of Education, the open-enrollment public charter school, or both.

6.24.6 The ~~State Board~~ authorizer may issue a final decision at the hearing or take the matter under advisement until a future scheduled ~~board~~ meeting.

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

6.25 Charter School Facilities

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

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

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

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

7.00 RULES APPLICABLE TO LIMITED PUBLIC CHARTER SCHOOLS

7.01 Any public school may apply to the ~~State Board~~ Department of Education for limited public charter school status for alternative comprehensive staffing and compensation programs designed to enhance student and teacher performance and improve employee salaries, opportunities, and incentives, to be known as a “limited public charter school.” The ~~State Board~~ authorizer shall not approve an

application for limited public charter school status that has not first been approved by the school district's board of directors.

- 7.02 A limited public charter school shall be for the purpose of instituting alternative staffing practices in accordance with a schedule approved by the ~~State Board~~ authorizer.
- 7.03 A limited public charter school shall be initially established for no more than five (5) years and may be renewed on a one-year or multiyear basis, not to exceed five (5) years per charter renewal.
- 7.04 The application for a limited public charter school shall:
 - 7.04.1 Contain the provisions of Title 6 of the Arkansas Code and the specific rules and regulations promulgated by the State Board from which the limited public charter school will be exempt.
 - 7.04.1.1 The provisions from which the public school district may be exempt for the limited public charter school only shall be limited to the following:
 - 7.04.1.1.1 The duty-free lunch period requirements set forth in Ark. Code Ann. § 6-17-111;
 - 7.04.1.1.2 The daily planning period requirements set forth in Ark. Code Ann. § 6-17-114;
 - 7.04.1.1.3 The committee on personnel policies requirements set forth in Ark. Code Ann. § 6-17-201 et seq., and
 - 7.04.1.1.4 Standards for accreditation set forth in the Arkansas Code, set forth by the Department of Education, or set forth by the State Board of Education.
 - 7.04.1.2 No limited public charter school may be allowed an exemption that would allow a full-time licensed employee to be paid less than the salary provided in the public school district's salary schedule for that employee;

- 7.04.2 Describe a plan for school improvement that addresses how the limited public charter school will improve student learning and meet the state education goals;
- 7.04.3 Describe how the licensed employees at the limited public charter school will be involved in developing and implementing the school performance plan set forth in Section 7.04.2 of these rules and in identifying performance criteria;
- 7.04.4 Outline proposed performance criteria that will be used during the initial five-year period of the charter to measure the progress of the limited public charter school in improving student learning and meeting or exceeding the state education goals; and
- 7.04.5 Be reviewed as a regular agenda item and approved after sufficient public comment by the local school board and the ~~State Board~~ authorizer.
- 7.05 Any application to obtain limited public charter school status approved by a local school board shall be forwarded by the local school board to the ~~State Board~~ authorizer.
- 7.06 If a local school board does not approve a public school's application, the local school board shall inform the applicants and faculty of the public school of the local school board's reasons for not approving the application.
- 7.07 A licensed teacher employed by a public school in the year immediately preceding the effective date of a limited public charter for a limited public charter school within that public school district may not be transferred to or be employed by the limited public charter school over the licensed teacher's objections, nor shall that objection be used as a basis to deny continuing employment within the public school district in another public school at a similar grade level.
- 7.08 If the transfer of a teacher within a public school district is not possible because only one (1) public school exists for the teacher's certification level, then the local school board shall call for a vote of the licensed teachers in the proposed limited public charter school site and proceed, at the local school board's option, with the limited public charter school application if a majority of the licensed teachers approve the proposal.

- 7.09 A licensed teacher choosing to join the staff of a limited public charter school shall be employed by the district by a written contract as set forth in Ark. Code Ann. § 6-13-620(5), with the contract being subject to the provisions of the Teacher Fair Dismissal Act of 1983, Ark. Code Ann. § 6-17-1501 et seq.
- 7.09.1 The licensed teacher shall also enter into a separate supplemental contract specifically for the teacher's employment in the limited public charter school, with the supplemental contract being exempt from the Teacher Fair Dismissal Act of 1983, Ark. Code Ann. § 6-17-1501 et seq., and from Ark. Code Ann. § 6-17-807.
- 7.09.2 Termination of the supplemental contract shall not be used as a basis to deny continued employment of the teacher within the public school district in another public school at a similar grade level.
- 7.10 Limited public charter schools shall be evaluated annually by the Department of Education based on criteria approved by the ~~State Board~~ authorizer, including without limitation:
- 7.10.1 Student performance data in order to determine progress in student achievement that has been achieved by the limited public charter school; and
- 7.10.2 The limited public charter school's compliance with Ark. Code Ann. § 6-23-107 and Section 4.05 of these rules.
- 7.10.3 The Department of Education shall annually report its evaluation to the State Board and the Commissioner of Education.
- 7.10.4 Based upon that evaluation, the ~~State Board~~ authorizer may revoke a limited public charter.

Source: Ark. Code Ann. § 6-23-601 as amended by Act 993 of 2011

7.11 ~~State Board~~ Authorizer Hearing Procedures Related to Limited Public Charter Schools (Application, Renewal, or Request for Charter Amendment)

- 7.11.1 All persons, with the exception of the attorneys representing the parties, who plan to provide testimony during the hearing must be sworn by a certified court reporter.

- 7.11.2 The limited public charter school or applicant shall have twenty (20) minutes to present its case to the ~~State Board~~ authorizer for approval of the proposed limited public charter school application, renewal, or request. The Chair of the ~~State Board~~ authorizing body may grant additional time, if necessary.
- 7.11.3 Parties opposed to the limited public charter school application, renewal, or request, if any, shall have twenty (20) minutes to present its case to the ~~State Board~~ authorizer for disapproval of the proposed limited public charter school application, renewal, or request. The Chair of the ~~State Board~~ authorizing body may grant additional time, if necessary.
- 7.11.4 The limited public charter school applicant shall have five (5) minutes to respond to any arguments in opposition to the limited public charter school application, renewal, or request. The Chair of the ~~State Board~~ authorizing body may grant additional time, if necessary.
- 7.11.5 The ~~State Board~~ authorizer will follow the presentation with discussion of the limited public charter school application, renewal, or request and questions, if any, to the limited public charter school or applicant, opposing parties, or both.
- 7.11.6 The ~~State Board~~ authorizer may issue a final decision at the hearing or take the matter under advisement until a future scheduled ~~board~~ meeting.

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

7.12 ~~State Board~~ Authorizer Hearing Procedures Related to Limited Public Charter Schools (~~State Board~~ Modification, Probation or Revocation of Charter)

- 7.12.1 Not later than twenty (20) days prior to the ~~State Board~~ authorizer meeting at which the matter of modification, probation or revocation will be considered, the Department of Education shall provide written notice of the reason(s) for the proposed action, as well as of the time and location of such hearing, to the limited public charter school.

- 7.12.1 All persons, with the exception of the attorneys representing the parties, who plan to provide testimony during the hearing must be sworn by a certified court reporter.
- 7.12.2 Arkansas Department of Education staff shall have twenty (20) minutes to present its case to the ~~State Board~~ authorizer for modification, probation, or revocation of a limited public charter school charter. The Chair of the ~~State Board~~ authorizing body may grant additional time, if necessary.
- 7.12.3 The limited public charter school shall have twenty (20) minutes to present its case to the ~~State Board~~ authorizer for regarding the proposed modification, probation, or revocation of the limited public charter school charter. The Chair of the ~~State Board~~ authorizing body may grant additional time, if necessary.
- 7.12.4 The ~~State Board~~ authorizer will follow the presentation with discussion of the matter and questions, if any, to representatives from the Department of Education, the conversion public charter school, or both.
- 7.12.5 The ~~State Board~~ authorizer may issue a final decision at the hearing or take the matter under advisement until a future scheduled ~~board~~ meeting.

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

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

8.01 Required Notices

8.01.1 No later than fifteen (15) days after the ~~State Board~~ authorizer votes to non-renew or revoke the charter, or the charter otherwise dissolves, the charter school or sponsoring entity shall furnish to the Department of Education:

- 8.01.1.1 A complete inventory of all personal property, real property, equipment, and fixtures owned or financed by the charter school, with documentation showing a description

of each asset, serial number, tag number, location, estimated value, any encumbrance on the asset including recorded security interest or lien, and the source of funds for each purchase;

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

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

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

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

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

8.01.2.1 The parents and legal guardians of all students;

8.01.2.2 All employees of the charter school;

8.01.2.3 All creditors of the charter school; and

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

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

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

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

8.01.4 Parental notices sent pursuant to Section 8.01.2 must additionally include:

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

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

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

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

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

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

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

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

8.02.2.1 If any state or federal funds remain in any bank account(s) titled in the name of the charter school or sponsoring entity,

the Commissioner of Education or his or her designee shall notify the financial institution that the account(s) holds state or federal funds and shall direct that the account(s) be immediately frozen, subject to further direction by the Commissioner or his or her designee.

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

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

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

8.03 Distribution of Property

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

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

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

- 8.03.1.3 Personal property encumbered by a recorded security interest or lien and purchased or financed by the open-enrollment public charter school in whole or in part with state funds;
- 8.03.1.4 Personal property purchased or financed in whole or in part with state funds by an open-enrollment public charter school that never received federal funds and never directly benefited from a federal grant administered by the Department of Education; and
- 8.03.1.5 Any other personal property not distributed as provided by Sections 8.03.3 and 8.03.4 below.

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

8.03.3 If the open-enrollment public charter school at any time operated an approved federal child nutrition program, all commodities and foodservice equipment purchased in whole or in part with federal funds or with nutrition program revenues shall be sold or transferred as directed by the Arkansas Department of Education Child Nutrition Unit.

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

8.04 Distribution of Funds

8.04.1 Upon the dissolution, non-renewal, or revocation of an open-enrollment public charter, the Commissioner of Education or his or her designee shall

assert control over any funds deemed the property of the state under Section 8.02 above.

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

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

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

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

8.04.2.4 Any debt owed to the Arkansas Department of Education Child Nutrition Unit for penalties or reimbursement of overpayments;

8.04.2.5 Any debt owed to the Department of Education or other state agency for reimbursement of any other overpayment of federal funds;

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

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

8.04.2.8 Unpaid employee wages accrued prior to the effective date of dissolution, non-renewal, or revocation in accordance with the school's salary schedule in effect as of the beginning of the current school year.

8.04.3 Any remaining funds deemed the property of the state under Section 8.02 above shall be deposited into the State Treasury to the credit of the Department of Education Public School Fund Account.

8.05 Distribution of Records

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

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

8.05.1.2 Student health / immunization records;

8.05.1.3 Attendance records;

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

8.05.1.5 All other student records.

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

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

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

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

8.05.2.2 Documentation of staff development hours; and

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

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

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

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

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

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

8.05.5.3 Lease agreements;

8.05.5.4 Accounting and bank records;

8.05.5.5 Payroll and tax records as required by federal law;

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

8.05.5.7 Any other document required by law to be maintained.

9.00 DEPARTMENT OF EDUCATION AS PUBLIC CHARTER AUTHORIZER

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

9.01.1 Approve;

9.01.2 Reject;

9.01.3 Renew;

9.01.4 Non-renew;

9.01.5 Place on probation;

9.01.6 Modify;

9.01.7 Revoke; or

9.01.8 Deny.

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

9.02.1 The Commissioner of Education shall appoint a public charter authorizing panel that consists of professional staff employed at the department to serve at the pleasure of the commissioner.

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

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

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

- 9.04 The department shall conduct all hearings on public charter school matters as required by law, rule, and process and make final determinations as allowed by law.
- 9.04.1 A hearing under Title 6, Chapter 23 of the Arkansas Code and these rules conducted by the department shall be an open meeting under the Freedom of Information Act of 1967, Ark. Code Ann. § 25-19-106.
- 9.04.2 For the purposes of Ark. Code Ann. § 25-19-106, the members of the public charter authorizing panel shall be considered a governing body only in regards to actions specifically authorized by Title 6, Chapter 23, Subchapter 7 of the Arkansas Code and these rules.
- 9.04.3 All decisions of the panel shall be made by a majority vote of the quorum.
- 9.04.4 A decision of the department is final except as provided under Ark. Code Ann. § 6-23-703 and Section 10.00 of these rules.
- 9.04.5 The Arkansas Administrative Procedure Act, Ark. Code Ann. § 25-15-201 et seq. shall not apply to a hearing concerning a public charter school.
- 9.05 The department shall be the primary authorizer of public charters except as provided under Ark. Code Ann. § 6-23-703 and Section 10.00 of these rules.
- 9.06 The department shall notify in writing the State Board, charter applicant, public charter school, and affected school districts, if any, of final decisions made by the department no less than fourteen (14) calendar days before the next regularly scheduled State Board meeting after the final decision is made by the department.
- 9.06.1 A charter applicant, public charter school, and affected school district, if any, may submit in writing a request that the State Board review the final decision of the department under Ark. Code Ann. § 6-23-703 and Section 10.00 of these rules.
- 9.06.2 The written request submitted under Section 9.06.1 of these rules shall state the specific reasons supporting a review by the State Board.
- 9.06.3 The decision of whether to review a final decision of the department is discretionary by the State Board and the provisions of this section and

Ark. Code Ann. § 6-23-703 do not grant any right of appeal to a charter applicant, public charter school, or affected school district.

Source: Ark. Code Ann. § 6-23-701 through 6-23-702.

10.00 STATE BOARD OF EDUCATION OPTIONAL REVIEW

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

10.02 If the State Board votes to review a final decision made by the department, the State Board shall:

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

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

10.02.3 Hold the hearing at the earlier of:

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

10.02.3.2 A special board meeting called by the State Board.

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

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

10.03.1.1 Affirm the decision of the department;

10.03.1.2 Take other lawful action on the public charter;

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

10.03.1.4 If the State Board requests additional information under Ark. Code Ann. § 6-23-703(c)(2)(C)(i) or Section 10.03.1.3 of these Rules, the State Board shall hold a subsequent hearing at the earlier of the next regularly scheduled State Board meeting or a special board meeting called by the State Board.

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

Source: Ark. Code Ann. § 6-23-703

11.00 EMERGENCY CLAUSE

WHEREAS, Act 509 of 2013 revised Arkansas law related to the authorization of public charter schools and becomes effective on or about August 16, 2013; and

WHEREAS, Act 509 of 2013 requires the Arkansas Department of Education to become the primary charter school authorizer in Arkansas; and

WHEREAS, on August 16, 2013, the Arkansas Department of Education must immediately begin its new role as primary charter school authorizer;

THEREFORE, the State Board of Education hereby determines pursuant to Ark. Code Ann. § 25-15-204 that imminent peril to the welfare of Arkansas public school students, open-enrollment public charter school applicants, parents and public school districts will result without the immediate promulgation of these rules.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT: Arkansas Department of Education

DIVISION: Legal Services

PERSON COMPLETING THIS STATEMENT: Jeremy C. Lasiter

TELEPHONE NO. 501-682-4227 **FAX NO.** 501-682-4249 **EMAIL:** jeremy.lasiter@arkansas.gov

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: Arkansas Department of Education Rules Governing Public Charter Schools.

1. Does this proposed, amended, or repealed rule have a financial impact?
Yes _____ No X _____

2. Does this proposed, amended, or repealed rule affect small businesses?
Yes _____ No X _____

If yes, please attach a copy of the economic impact statement required to be filed with the Arkansas Economic Development Commission under Arkansas Code § 25-15-301 et seq.

3. If you believe that the development of a financial impact statement is so speculative as to be cost prohibited, please explain. N/A

4. If the purpose of this rule is to implement a federal rule or regulation, please give the incremental cost for implementing the rule. Please indicate if the cost provided is the cost of the program. N/A

Current Fiscal Year

Next Fiscal Year

General Revenue _____

General Revenue _____

Federal Funds _____

Federal Funds _____

Cash Funds _____

Cash Funds _____

Special Revenue _____

Special Revenue _____

Other (Identify) _____

Other (Identify) _____

Total _____

Total _____

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

Current Fiscal Year

Next Fiscal Year

\$ _____

\$ _____

6. What is the total estimated cost by fiscal year to the agency to implement this rule? Is this the cost of the program or grant? Please explain. N/A

Current Fiscal Year

Next Fiscal Year

\$ _____

\$ _____

DEPARTMENT OF EDUCATION
FISCAL IMPACT STATEMENT OF PROPOSED REGULATION
(In compliance with Ark. Code Ann. §§ 10-3-309 and 25-15-204)

Regulation Title: **Arkansas Department of Education Rules Governing Public Charter Schools**

Summary Description of Regulatory Proposal: **These rules have been amended to comply with Act 509 of 2013.**

Cite Statutory Authority for this Regulatory Proposal: **Ark. Code Ann. § 6-23-101 et seq. as amended by Act 509 of 2013.**

- I. Fiscal Impact on the Department: (include whether impacts are non-recurring or recurring) **None. Existing resources will be utilized.**
 - 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) **None.**
 - A. Resources Required - Personnel, equipment, office space.
 - B. Time Required for Implementation.
 - C. Procedural Changes.
 - D. Other.

- III. Additional Comments.

Prepared by: Jeremy C. Lasiter
General Counsel
June 11, 2013