

ARKANSAS DEPARTMENT OF EDUCATION
RULES AND REGULATIONS
GOVERNING PUBLIC CHARTER SCHOOLS
November 2007

1.00 Regulatory Authority

- 1.01 These rules and regulations shall be known as the Arkansas Department of Education Rules and Regulations Governing Public Charter Schools.
- 1.02 The State Board of Education enacted these rules and regulations pursuant to its authority under Ark. Code Ann. §6-11-105, 25-15-201 et seq., 6-23-101 et seq., and Act 736 of 2007.

2.00 Purpose of Regulations

- 2.01 The purposes of these rules and regulations are to implement Ark. Code Ann. §6-23-101, et seq. and to establish the requirements and procedures for the application of a public charter school, for monitoring a school once it has been granted a charter by the State Board of Education (State Board), for renewal, modification, and revocation of a charter granted by the State Board of Education, and for disbursing funds to a public charter school.

3.00 Definitions

For the purpose of these rules and regulations:

- 3.01 “Debt” is defined as a financial obligation incurred by a public charter school, which is due in more than 365 days.
- 3.02 “Average daily membership (ADM)” is defined as the total number of days attended plus the total number of days absent by students during the first three (3) quarters of each school year, divided by the number of school days actually taught in the school during that period of time.
- 3.03 “Local School Board” means a board of directors exercising the control and management of a public school district. In addition, for the purposes of these regulations, a local school board refers to the board of directors of the school district where the public charter school will be physically located.
- 3.04 “Public school district in which enrollment is likely to be affected” is defined as the school districts in the geographical area surrounding the proposed open-enrollment public charter school from which students are likely to be drawn across district lines for enrollment in the public charter school.

- 3.05 “Application” is defined as the proposal for obtaining conversion public charter school status, open-enrollment public charter school status, or limited public charter school status presented to the State Board of Education requesting to enter into a charter that describes the school and provides all of the information required by law and the Arkansas Department of Education, in the form prescribed by the Charter School Office. The term application shall be synonymous with the term petition, and the terms are interchangeable throughout these rules. The application, in addition to any conditions or requirements agreed upon by the State Board, will serve as the terms and conditions of the charter.
- 3.06 “Letter of Intent” is defined as 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. Such letter of intent shall be submitted on forms provided by the Department of Education by the established deadline.
- 3.07 “Eligible entity” is defined as a public or private, nonsectarian institution of higher education, governmental entity, or organization, which has applied for tax exempt status under §501(c)(3) of the Internal Revenue Code at the time of application for the open-enrollment charter. The eligible entity must have 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.
- 3.08 “Charter” is defined as a performance-based contract between the State Board of Education and an approved applicant for public charter school status which exempts the public charter school from specified state and local rules, regulations, policies, and procedures for an initial five-year (5) period and which operates under the specific terms of a charter granted by the State Board of Education.
- 3.09 “Public charter school” is defined as a conversion public charter school, or an open-enrollment public charter school.
- 3.10 “Open-enrollment public charter school” is defined as a public school that is operating under the terms of a charter granted by the State Board of Education on the application of an eligible entity and may draw its students from any public school district in this state.
- 3.11 “Conversion public charter school” is defined as an existing public school which has converted to a school under the terms of a charter approved by the local school board and the State Board of Education.
- 3.12 “Founding member” is defined as any individual who is either a member or an employee of the eligible entity applying for the initial charter for an open-enrollment public charter school or a member of the initial governing non-advisory board of the open-enrollment public charter school.

- 3.13 “Parent” is defined as any parent, legal guardian, or other person having custody or charge of a school-age child.
- 3.14 “Public school” is defined as a school that is part of a public school district under the control and management of a local school board.
- 3.15 “License” is that authority granted by the State Board of Education to an already existing open-enrollment public charter sponsoring entity for the purpose of establishing another open-enrollment public charter school with a limit of only one charter license to be approved for each additional open-enrollment public charter school to be established under an already existing open-enrollment charter provided the applicant for a charter license meets the following minimum conditions: (1) open-enrollment public school charter from the State Board of Education, and (2) meets the requirements of Section 10.05.1 of these Rules.

4.00 Observance of Anti-Discrimination Laws

- 4.01 All public charter schools shall observe and comply with all anti-discrimination laws, both federal and state.
- 4.02 For the purposes of the Individuals with Disabilities Education Act (IDEA) and these rules and regulations, all public charter schools are responsible for ensuring that the requirements of IDEA are met.
- 4.03 For the purposes of Section 504 of the Rehabilitation Act and these rules and regulations, all public charter schools are responsible for ensuring that the requirements of Section 504 are met.

5.00 Application Process, Schedule, Forms and Technical Assistance

- 5.01 A procedure for establishing a public charter school shall be published by the Department of Education at least thirty (30) days prior to the hearing of a charter school application or license request or issue, as approved by the State Board of Education. If all dates and requirements in the procedures for establishing a public charter school are not strictly followed, the State Board may refuse to consider the application for a charter.
- 5.02 Application forms and other documents needed for the public charter school application process shall be provided by the Department of Education Charter School Office and are attached as “Appendix A” to these Rules and incorporated into these Rules as if fully set forth herein.
- 5.03 Any requests for technical assistance by a charter applicant shall be made to the Department of Education Charter School Office.

- 5.04 A public school district is not eligible to apply for an open-enrollment public charter.

6.00 Conversion Public Charter School – Application Approval Procedures

- 6.01 Each conversion public charter applicant must submit to the Department of Education Charter School Office a letter of intent signed by the school board president sent by certified mail and received by the Department on or before the established deadline.
- 6.02 Each charter applicant shall prepare an application that describes the elements of the applicant’s plan for establishing a conversion public charter school. The application shall be on a form provided by the Department of Education. If requested, the Department of Education Charter School Office shall give technical assistance in preparing the application.
- 6.03 A public school application for a conversion public charter school may include, but shall not be limited to, the following purposes:
- 6.03.01 Adopting research-based school or instructional designs, or both, that focus on improving student and school performance;
 - 6.03.02 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
 - 6.04.03 Partnering with other districts or schools to address students’ needs in a geographical location or multiple locations.

7.00 Responsibilities of the State Board of Education – Conversion Public Charter Schools

- 7.01 The State Board shall not approve a conversion public charter school application from a district that has not been approved by the district’s local board.
- 7.02 The Department of Education shall review the applications and present to the State Board a written evaluation of the application. A copy of the evaluation shall be sent to the applicant. The applicant will be allowed to submit a written response to the evaluation by an established deadline. The applicant will not be allowed to supplement the original application with additional documents or new information prior to the State Board review.
- 7.03 The State Board shall review the applications for proposed public charter schools. The State Board shall vote whether or not to award charters. The State Board may place conditions on the charters it awards.

- 7.04 The State Board of Education may defer the vote to approve or disapprove a charter application in order to allow a charter applicant to make modifications or receive technical assistance to correct deficiencies in the application.
- 7.05 The decision of the State Board of Education shall be final.

8.00 Open-Enrollment Public Charter School – Application Approval Procedures

- 8.01 Each open-enrollment public charter applicant must submit to the Department of Education Charter School Office a letter of intent sent by certified mail and received by the Department on or before the established deadline. A copy of the letter of intent shall also be sent by certified mail to each member of the local board of the public school district where the proposed public charter school will be located as well as the local school boards of public school districts in which enrollment is likely to be affected. The letter to each board member shall only be required for each school board member whose name and mailing address is provided by the superintendent of an affected school district or the Department upon request of the applicant.
- 8.02 Each charter applicant shall prepare an application that describes the elements of the applicant's plan for establishing a public charter school. The application shall be on a form provided by the Department of Education. If requested, the Department of Education Charter School Office shall give technical assistance in preparing the application.
- 8.03 The application shall be received by the established deadline to the local board of the public school district where the proposed public charter school will be located and received by the Department on or before the established deadline. The applicant shall send the application by certified mail to the Superintendent of the local district. The applicant shall provide the Department of Education with verification that the required notice was sent to the local board. A copy of this same application shall be sent to the Department of Education.
- 8.04 Each open-enrollment public charter applicant shall send a copy of the application to all public school districts in which enrollment is likely to be affected by the public charter school by the established deadline. The application shall be sent by certified mail to the local school board(s) in care of the Superintendent(s) by the established deadline. Documentation shall be provided to the Department of Education, in the form of copies of certified mail receipts that the applications were sent.
- 8.05 The board of the public school districts in which enrollment is likely to be affected by the proposed public charter school may review the open-enrollment public charter school application and submit any written findings or statements of the board, signed by the board president, to the Department of Education Charter School Office by an established deadline. The school board shall send a copy of

the written findings or statements to the applicant by certified mail. Failure to submit this information will constitute the conclusion that the proposed public charter school will have no impact on the district.

- 8.06 The local board of the district where the proposed public charter school is to be located shall review the open-enrollment public charter school application. The local board shall vote to approve or disapprove the application and prepare written findings. The results of the vote and the written findings shall be sent by certified mail to the Department of Education Charter School Office and to the public charter school applicant by an established deadline. An affected school district may submit written comments concerning the application to the State Board to be considered at the time of the State Board's review of the application by a deadline to be established by the State Board.
- 8.07 The applicant for an open-enrollment public charter school whose application is disapproved by the local board shall have the immediate right to proceed with a written notice of appeal to the State Board of Education. To exercise the right to appeal, the applicant must send written notice of appeal to the State Board within ten (10) calendar days after receiving notice of the local board's disapproval of the application for an open-enrollment public charter school. The notice of appeal shall be sent by certified mail to the State Board of Education and to the local board of the district where the proposed public charter school is to be located.

9.00 Responsibilities of the State Board of Education – Open-Enrollment Public Charter Schools

- 9.01 The Department of Education shall review the applications and present to the State Board a written evaluation of the application. It is recommended that the evaluation form attached to these Rules as "Appendix C" and incorporated into these Rules as if fully set forth herein is to be used by the Department in evaluating applications. A copy of the evaluation shall be sent to the applicant. The applicant will be allowed to submit a written response to the evaluation by an established deadline. The applicant will not be allowed to supplement the original application with additional documents or new information prior to the State Board review. The State Board of Education may request the Department of Education to contract with outside agencies to provide services concerning the review and evaluation of charter applications.
- 9.02 In the event an application is denied by the local board, the State Board shall hold a hearing within forty-five (45) calendar days after receipt of the notice of appeal at a location where all interested parties may appear and present relevant information regarding the proposed open-enrollment public charter school.
- 9.02.01 The charter applicant shall have a period of time to be set at the discretion of the State Board as required by Section 5.01 of these Rules to present its arguments to the State Board for approval of the

proposed public charter school. The local school board and boards of districts likely to be affected by the proposed public charter school shall have a combined period of time, to be set at the discretion of the State Board, to present the arguments for disapproval of the proposed public charter school to the State Board. The charter applicant shall then have a period of time, to be set at the discretion of the State Board, to respond to the arguments of the local school board and boards of district's likely to be affected by the proposed charter school. The State Board shall follow the presentations with discussion of the charter application and possible questions to the public school board representative(s) and/or the charter applicant.

- 9.03 The State Board shall review the applications for proposed public charter schools and utilize the same procedures set forth in Section 9.02.01 of these Rules. The Board shall vote whether or not to award charters to locally approved applications. The State Board may place conditions on the charters it awards.
- 9.04 The State Board of Education may defer the vote to approve or disapprove a charter application in order to allow a charter applicant to make modifications or to receive technical assistance to correct deficiencies in the application.
- 9.05 The decision of the State Board shall be final.

10.00 Content of Application and Charter

- 10.01 The public charter school application shall include, but is not limited to the following:
 - 10.01.01 educational mission;
 - 10.01.02 educational need;
 - 10.01.03 description of public hearing results;
 - 10.01.04 description of educational plan, which clearly addresses how the public charter school will improve student learning and academic achievement and meet or exceed state goals;
 - 10.01.05 description of governance and organizational structure;
 - 10.01.06 (for open-enrollment public charter schools only) description of facilities to be used, location of the proposed school, and the present use of the facility and the use for the past three (3) years; and a statement of the current permissible uses from the local zoning authority;

- 10.01.07 copies of annual budget and financial plan (including all sources of funding);
 - 10.01.08 establishes the entity (if it is an organization) has applied for tax exempt status under § 501(c)(3) of the Internal Revenue Code of 1986;
 - 10.01.09 agreement to provide annual report of progress toward meeting performance goals to parents, community, local board and state board;
 - 10.01.10 description of admission procedure;
 - 10.01.11 description of support services;
 - 10.01.12 identification of regulations, if any, to be waived, with rationale for waiver request;
 - 10.01.13 school calendar and school day schedule; and
 - 10.01.14 description of age or grade range of pupils to be enrolled.
- 10.02 In addition to the requirements identified in Section 10.01 of these Rules, an application for an open-enrollment public charter school shall include, but is not limited to, the following:
- 10.02.01 specification of period for which the charter or any charter renewal is valid, contingent upon acceptable student performance levels established within the state accountability system;
 - 10.02.02 prohibition of discrimination in admission on the basis of gender, national origin, race, ethnicity, religion, disability, academic or athletic eligibility, although the charter may provide for the exclusion of a student who has been expelled from another public school district;
 - 10.02.03 specification of the qualifications to be met by professional employees of the program;
 - 10.02.04 description of budget process;
 - 10.02.05 description of annual audit of financial and programmatic operations, including how the charter school will provide information needed by the public school district in which the charter school is located;
 - 10.02.06 description of facilities to be used and its location including the terms of the facility utilization agreement if the facility for the public charter school is owned or leased from a sectarian organization. All lease agreements by applicants for school facilities shall utilize the Lease

Agreement Form attached to these Rules as “Appendix B” and incorporated into these Rules as if fully set forth herein;

- 10.02.07 description of geographical area, school district or school attendance area to be served by the program;
- 10.02.08 description of admission and enrollment criteria and student recruitment and selection processes, including provision for a random, anonymous student selection method if more eligible students apply for a first-time admission than the public charter school is able to accept; and
- 10.02.09 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.

10.03 Preference for Approval of Open-Enrollment Public Charter Schools

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

- 10.03.1 Where the percentage of students who qualify for free or reduced price lunches is above the average for the state;
- 10.03.2 Where the district has been classified by the State Board as in academic distress under Ark. Code Ann. § 6-15-428; or
- 10.03.3 Where the district has been classified by the Department of Education as in some phase of school improvement under Ark. Code Ann. § 6-15-426 or some phase of fiscal distress under § 6-20-1902 et seq., if the fiscal distress status is a result of administrative fiscal mismanagement, as determined by the State Board.

10.04 The State Board may grant no more than a total twenty-four (24) charters for open-enrollment public charter schools. A charter applicant’s school campus shall be limited to a single open-enrollment public charter school per charter except as allowed in Section 10.05 of these Rules.

- 10.04.1 An open-enrollment public charter school shall not open in the service area of a public school district administratively reorganized pursuant to the provisions of § 6-13-1601 et seq. until after the third year of the administrative reorganization.

10.05 In accordance with Ark. Code Ann. § 6-23-304, the Knowledge Is Power Program instructional program is recognized as an effective method for meeting the

statutory purpose and intent of Ark. Code Ann. § 6-23-101 et seq., closing the achievement gap in public schools for economically disadvantaged, racial and ethnic subgroups, Ark. Code Ann. § 6-15-401 et seq. and Ark. Code Ann. § 6-15-1601 et seq., and otherwise providing an alternative, proven, adequate and equitable education to Arkansas students.

- 10.05.1 Any charter applicant that receives an approved open-enrollment public charter under Section 10.04 of these rules may petition the State Board at any time for a charter school to be opened no earlier than July 1 of the following school year for additional licenses to establish an open-enrollment public charter school in any of the various congressional districts in Arkansas provided that the applicant meets the following conditions, subject to the normal application, review, and approval process of the state board, with the exception that the license request does not have to be initially sent to the local board for its consideration:
- 10.05.1.1 The approved open-enrollment public charter applicant has demonstrated success in student achievement gains, as defined by the state board; and
 - 10.05.1.2 The approved open-enrollment public charter applicant has not been subject to any disciplinary action by the State Board; has not been classified as in school improvement, academic or fiscal distress; and has not had its open-enrollment public charter placed on probation, suspended or revoked; and
 - 10.05.1.3 The State Board of Education determines in writing by 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 10.05.1 of these rules.
- 10.05.2 The State Board shall consider any such license petition within ninety (90) business days after it receives the petition, utilizing the same procedures set forth in Section 9.02.01 of these Rules.

11.00 Enrollment

- 11.01 Enrollment for an existing public school converted to a public charter school will be determined in the manner similar to the enrollment procedures for the school district in which the public charter school is located or similar to the enrollment procedures for district magnet schools.

- 11.02 If more eligible students apply for admission than the public charter school is able to accept, then the public charter school shall create an enrollment process based upon a random anonymous student selection method.
- 11.03 While a public charter school may operate on a traditional calendar or a year-long calendar, all public charter schools shall begin the school year in the fall.
- 11.04 Enrollment projections for open-enrollment public charter schools must be based on documentation as of July 1 of the school year.
- 11.05 An open-enrollment public charter school may allow a preference for children of the founding members of the eligible entity. The number of enrollment preferences granted to the 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 siblings of students currently enrolled in the school.
- 11.06 A public charter school may allow the use of a weighted lottery 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, as permitted by the Charter Schools Program, Title V, Part B, Non-Regulatory Guidance of the United States of the Department of Education, July, 2004.

12.00 Funding

- 12.01 Funding for Public Charter Schools
 - 12.01.01 An existing public school converted to a public charter school shall receive funds equal to the amount apportioned by the district from state and local revenue per average daily membership.
 - 12.01.02 An open-enrollment public charter school shall receive funds equal to the amount that a public school would receive under 6-20-2305 (a) and (b) as well as any other funding that the public charter school is entitled to receive under law.
 - 12.01.03 The initial funding estimate for an open-enrollment public charter school shall be based upon the enrollment as of July 30.
- 12.02 The Department of Education shall establish procedures to ensure that every public charter school receives the Federal funds for which the public charter school is eligible.
 - 12.02.01 The Department of Education shall take such measures as necessary to ensure that a public charter school receives the federal funds for which

the school is eligible not later than five (5) months after the public charter school first opens, notwithstanding the fact that the identity and characteristics of the students enrolling in the public charter school are not fully and completely determined until that public charter school actually opens.

- 12.02.02 The measures shall also ensure that every public charter school expanding its enrollment in any subsequent year of operation receives the federal funding for which the public charter school is eligible not later than five (5) months after such expansion.
- 12.03 The submission to an annual certified audit as required by Ark. Code Ann. §6-23-101 et seq., shall be made according to Arkansas Law and to the Department of Education fiscal regulations and time lines. Failure to submit such audit in a timely manner shall result in suspension of state aid payments until such audit is received by the Department of Education. The school's fiscal year shall run from July 1 through June 30.
- 12.04 All open-enrollment public charter schools operated by an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code are subject to the same auditing and accounting requirements as any other public school district in the state.
- 12.05 An open-enrollment public charter school shall not use the moneys that it receives from the state for any sectarian program or activity or as collateral for debt. However, open-enrollment public charter schools may enter into lease-purchase agreements for school buildings built by private entities with facilities bonds exempt from federal taxes under 26 USCS 142(a) as allowed by § 6-20-402. No indebtedness of an open-enrollment public charter school shall ever become a debt of the state of Arkansas.

13.00 Evaluation, Monitoring and Reporting Requirements of Public Charter Schools

- 13.01 The Arkansas Department of Education shall conduct an annual evaluation of all public charter schools, which shall include, but not be limited to, consideration of the following:
 - 13.01.01 student scores under the statewide assessment program described in § 6-15-433;
 - 13.01.02 student attendance;
 - 13.01.03 student grades;
 - 13.01.04 student discipline incidents

- 13.01.05 socioeconomic data on students' families;
- 13.01.06 parent satisfaction with the school;
- 13.01.07 student satisfaction with the schools;
- 13.01.08 on-site monitoring of the facility; and
- 13.01.09 other terms of the school's charter.

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

13.03 As a condition of its charter, each public charter school is required to provide an annual report to parents, the community and the State Board that details its progress in meeting its academic performance objectives.

13.04 Each public charter school shall participate in the Arkansas Public School Computer Network reporting requirements.

13.05 Each public charter school shall provide to the Department of Education the same data required of other public schools, unless such data requirement is waived by the terms of the charter.

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

14.01 The State Board may modify the charter of a public charter school or it may place a public charter school on probation or revoke its charter or deny renewal of its charter at any time the State Board deems it necessary.

14.02 The State Board shall notify the chief operating officer of the public charter school of the alleged violation of the school's charter or of the offense in question. The notice shall include the State Board's proposed action. The notice shall be delivered by certified mail to the chief operating officer of the public charter school.

14.03 The chief operating officer of the public charter school, on behalf of the charter school, may request, in writing, a hearing before the State Board.

14.04 The State Board shall hold a hearing, if requested, within forty-five (45) calendar days of receipt of the hearing request.

14.05 The hearing shall be held at the location of the regular or special meeting of the State Board of Education.

14.05.01 Notice of the hearing shall be provided to the superintendent and the president of the local school board of the school district where the conversion public charter school is located or to the chief operating officer of the open-enrollment public charter school.

14.05.02 The hearing shall be open to the public.

14.06 The decision of the State Board shall be final.

15.00 Impact on Desegregation Efforts

15.01 The applicant petitioners for each application for a proposed public charter school must include a written evaluation describing the potential impact on the efforts of a public school district or districts to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools.

15.02 The local board shall also prepare a written evaluation of the potential impact the proposed public charter school will have on the efforts of the public school district or districts to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools. This evaluation shall be forwarded to the State Board.

15.03 Technical assistance in this review may be provided by the Department of Education's section on Accountability and its unit on Desegregation Monitoring.

15.04 The State Board of Education shall not approve any public charter school which hampers, delays, or in any manner negatively affects the desegregation efforts of a public school district or districts in this state.

16.0 Renewal of Charters

16.01 Each open-enrollment public charter schools and conversion public charter school must apply for renewal of its charter prior to expiration on a form prescribed by the Charter School Office, by a deadline set by the Charter School Office.

16.02 A charter may be renewed by the State Board of Education for up to a five (5) year period. The State Board may decide not to renew a charter or to renew a charter for a period less than five years.

17.0 Assets of School as Property of State

- 17.01 Any holder of a charter for an open-enrollment public charter school must give the Department at least thirty (30) business days' notice of its intent to cease operation as an open-enrollment public charter school to allow the charter holder and the Department sufficient time to accomplish those items necessary and required to close the charter school.
- 17.02 Upon dissolution of an open-enrollment public charter school or upon non-renewal or revocation of the charter, all net assets of the open-enrollment public charter school, including any interest or real property, purchased with public funds shall be deemed the property of the state, unless otherwise specified in the charter of an open-enrollment charter school.
- 17.03 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 of Education may require that the property be sold.
- 17.04 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. The open-enrollment public charter school will assume sole responsibility of all expenditures at the close of the school.