

Arkansas Department of Education
Rules Governing the Distribution of Student Special Needs Funding and the
Determination of Allowable Expenditures of Those Funds
May 2016

1.00 Authority

- 1.01 The Arkansas State Board of Education’s authority for promulgating these Rules is pursuant to Ark. Code Ann. §§ 6-11-101 *et seq.*, 6-15-401 *et seq.*, 6-15-2101 *et seq.*, 6-15-2201 *et seq.*, 6-20-401 *et seq.*, 6-20-2301 *et seq.*, and 6-48-101 *et seq.*, and Acts 841, 846, 994, and 1115 of 2015.
- 1.02 These Rules shall be known as the Arkansas Department of Education (ADE) Rules Governing the Distribution of Student Special Needs Funding and the Determination of Allowable Expenditures of Those Funds.

2.00 Purpose

- 2.01 The purpose of these Rules is to distribute student special needs funding and define the allowable expenditures of those funds.

3.00 Definitions

- 3.01 “Alternative Learning Environment (ALE)” is a student intervention program consisting of an alternate class or program within a public school or school district that:
 - 3.01.1 Affords all students an environment that seeks to eliminate traditional barriers to learning for students whose academic and social progress are negatively affected by the student's personal characteristics or situation; and
 - 3.01.2 Is not a punitive environment but is one that is conducive to learning.
 - 3.01.3 For determination of funding only, an ALE is not a separate school even if the Arkansas Department of Education (Department) assigns the ALE a separate local education agency number.
- 3.02 “Average Daily Membership (ADM)” is the total number of days of school attended plus the total number of days absent by students in grades kindergarten through 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.

- 3.02.1 In those instances in which the ADM for fewer than three (3) quarters is specified, the number of days used in the calculation shall be the days in the specified period of time.
- 3.02.2 As applied to these Rules, students who may be counted for ADM are:
 - 3.02.2.1 Students who reside within the boundaries of the school district, are enrolled in a public school operated by the school district, and are enrolled in a curriculum that fulfills the requirements established by the State Board of Education (State Board) under the Standards for Accreditation of Arkansas Public Schools and School Districts;
 - 3.02.2.2 Legally transferred students living outside the school district, but who are attending a public school in the school district under a provision of the Arkansas Code and are enrolled in a curriculum that fulfills the requirements established by the State Board under the Standards for Accreditation of Arkansas Public Schools and School Districts.
 - 3.02.2.3 Open-enrollment public charter school students who are enrolled in a curriculum that fulfills the requirements established by the State Board under the Standards for Accreditation of Arkansas Public Schools and School Districts;
 - 3.02.2.4 Students who are eligible to attend and who reside within the boundaries of a school district and are enrolled in the Arkansas National Guard Youth Challenge Program, so long as the students are participants in the program;
 - 3.02.2.5 Students who reside within the boundaries of the school district but due to geographic barriers attend school out-of-state under a tuition agreement, even if they are not enrolled in a curriculum that fulfills the requirements established by the State Board under the Standards for Accreditation of Arkansas Public Schools and School Districts; or
 - 3.02.2.6 Any other circumstance allowed by law.
- 3.03 “Bonus” is a non-recurring payment to a school district employee, which shall not be considered an addition to the employee’s contractual salary amount.

- 3.04 “Chronically Underperforming School” is a public school that does not meet adequate yearly progress under the No Child Left Behind Act of 2001, 20 U.S.C. § 6301 *et seq.*, as it existed on July 1, 2009, for three (3) or more consecutive years.
- 3.05 “Classroom Teacher” is an individual who is required to hold a teaching license from the Arkansas Department of Education and who is working directly in instruction with students in a classroom setting for more than seventy percent (70%) of the individual's contracted time; a guidance counselor; or a librarian.
- 3.06 “Community Eligibility Provision (CEP) District” is a school district that is identified by the Arkansas Department of Education (Department) as participating in the special assistance certification and reimbursement alternative implemented under 42 U.S.C. § 1759(a).
- 3.07 “Community Eligibility Provision (CEP) District Base Year (Base Year)” is the last school year for which individual student free or reduced-price meal eligibility determinations were made.
- 3.08 “Coordinated School Health Coordinator” is an individual that coordinates the implementation of the Coordinated School Health model components, facilitates the Wellness Priority within the Arkansas Comprehensive School Improvement Plan (ACSIP), and has a minimum of a bachelor's degree (master's degree preferred) in education, nursing, health services administration, social services, psychology/mental health services, or nutrition. The coordinator will be in addition to other school health staff or positions.
- 3.09 “Coordinated School Health (CSH)” is an effective system designed to connect health (physical, mental/emotional, and social) with education. This coordinated approach improves students' health and their capacity to learn through the support of families, communities, and schools working together. The CSH approach consists of eight major components. Although these components are listed separately, it is their composite that allows CSH to have significant impact. The eight components include: health education, physical education/physical activity, health services, nutrition services, health promotion for staff, counseling and psychological services, healthy school environment, and student/parent/community involvement.
- 3.10 “Department” or “ADE” is the Arkansas Department of Education.
- 3.11 “English Language Learners (ELL)” are students identified as not proficient in the English language based upon approved English proficiency assessment instruments, which measure proficiency in and comprehension of English in reading, writing, speaking, and listening.

- 3.12 “Eligible Alternative Learning Environment (ALE)” is an Alternative Learning Environment (ALE) approved by the Department pursuant to Section 4.05 below as being in compliance with Ark. Code Ann. § 6-48-101 *et seq.* and these Rules.
- 3.13 “Eligible ALE Student” is a student who:
- 3.13.1 Meets the qualifications of Section 4.02;
 - 3.13.2 Is enrolled in an eligible ALE program; and
 - 3.13.3 Has been enrolled in an eligible ALE for a minimum of twenty (20) consecutive days per school year except as provided in Section 4.06.3.3.
- 3.14 “Excess National School Lunch State Categorical Funds” are current year national school lunch state categorical funds remaining, after a district has met the educational needs of students, which are to be used to supplement teacher salaries.
- 3.15 “Experience-based Field Trip” is a student field trip which culminates an academic content unit directly tied to the Arkansas Frameworks that includes research-based activities.
- 3.16 “General Description” includes needs assessment/process results, descriptions of positions, programs, other expenditures, and program evaluation.
- 3.17 “Human Service Worker” is someone who shall collaborate and provide information, resources, services, and referrals, to the district, local education agency, parents, and students in a variety of activities, trainings, and assessments concerning the physical, mental/emotional, and social health of the child.
- 3.18 “Intervention Services” are activities within or outside a school that will eliminate traditional barriers to learning.
- 3.19 “Licensed Mental Health Counselor (LMHC)” is someone who holds a master’s degree from a graduate program in the field of Licensed Mental Health Counseling. They may render mental health care services to individuals, families, or groups. LMHCs use therapeutic techniques to define goals and develop treatment plans aimed toward prevention, treatment, and resolution of mental and emotional dysfunction. Mental Health Professionals are licensed by the specific state boards corresponding with their licensure (i.e., Board of Examiners [LPC, LAC], Board of Psychology [PhD, LPE), Social Work Licensing Board [LCSW, LMSW, LSW], which also monitors professional conduct).
- 3.20 “NSLA” is the National School Lunch Act.

- 3.21 “National School Lunch Students” are those students from low socioeconomic backgrounds as indicated by eligibility for free or reduced-price meals under the United States Department of Agriculture's National School Lunch Program as determined on October 1 of each previous school year and submitted to the Department, unless the district is a Provision 2 district or a Community Eligibility Provision (CEP) district.
- 3.22 “Open Enrollment Public Charter School” is a public school operating under the terms of a charter granted by the State Board of Education pursuant to Ark. Code Ann. § 6-23-301 *et seq.*
- 3.23 “Previous Year” is the school year immediately preceding the current school year.
- 3.24 “Professional Development” is a coordinated set of planned learning activities that:
- 3.24.1 Improve the knowledge, skills, and effectiveness of teachers;
 - 3.24.2 Address the knowledge and skills of administrators and paraprofessionals concerning effective instructional strategies, methods, and skills;
 - 3.24.3 Lead to improved student academic achievement; and
 - 3.24.4 Are research-based, standards-based, and continuous.
 - 3.24.5 Training activities for school bus drivers may also be included.
- 3.25 “Provision 2 District” is a school district that is identified by the Department as participating in the special assistance certification and reimbursement alternative implemented under 42 U.S.C. § 1759(a).
- 3.26 “Provision 2 District Base Year (Base Year)” is the last school year for which individual student free or reduced-price meal eligibility determinations were made.
- 3.27 “Scholastic Audit” is a comprehensive review of the learning environment, organization efficiency, and academic performance of schools and districts.

- 3.28 “School District” or “District” is a geographic area with an elected board of directors that qualifies as a taxing unit for purposes of *ad valorem* property taxes under Title 26 of the Arkansas Code, and whose board conducts the daily affairs of public schools pursuant to the supervisory authority vested in it by the General Assembly and Title 6 of the Arkansas Code. For the purposes of these Rules, all references to “school district” or “district” include open enrollment public charter schools, except as waived by the State Board of Education pursuant to Ark. Code Ann. § 6-23-301 *et seq.*
- 3.29 “School Resource Officer” (SRO) is a sworn law enforcement officer assigned to a school on a long-term basis. The SRO is specifically trained in and performs three main functions: law enforcement officer, law related counselor, and law related educator. In addition the SRO works in collaboration with the school and the community as a resource.
- 3.30 “School Year” is the year beginning July 1 of one calendar year and ending June 30 of the next calendar year.
- 3.31 “Students at Risk” are those students demonstrating an ongoing persistent lack of attaining proficiency levels in literacy and mathematics.
- 3.32 “Social Worker” is someone who has an undergraduate or graduate degree in social work or a related mental health field, and is trained in psychotherapy and social work techniques. Family therapists and employee assistance program counselors are often social workers. Social workers who work in private agencies or independent practice must hold state licenses from the Board of Registration of Social Workers. A Licensed Certified Social Worker (LCSW) or a Licensed Social Worker (LSW) may practice in an agency setting under proper supervision. Professional conduct is monitored by the State of Arkansas Social Work Licensing Board.
- 3.33 “Supplement to Teacher Salaries” is the use of excess national school lunch state categorical funds to supplement teacher salaries as either a bonus, as defined at Section 3.03, or to provide an amount of compensation above the amount required by the minimum teacher salary compensation schedule, as defined at Ark. Code Ann. § 6-17-2403.
- 3.34 “Technology” is any equipment for instructional purposes that is electronic in nature including, but not limited to, computer hardware, computer software, internet connectivity, and distance learning.

4.00 Special Needs - Alternative Learning Environment (ALE)

4.01 ALE General Requirements

4.01.1 Every school district shall provide one (1) or more eligible Alternative Learning Environments (ALE) for all students meeting the criteria of Section 4.02.1 of these Rules, by any of the following methods:

4.01.1.1 A school district may establish and operate an ALE;

4.01.1.2 A school district may cooperate with one (1) or more other school districts in a consortium to establish and operate an ALE, with one school district designated as the lead district; ~~or~~

4.01.1.3 A school district may use an ALE operated by an education service cooperative established under The Education Service Cooperative Act of 1985, Ark. Code Ann. § 6-13-1001 *et seq.*; or

4.01.1.4 A school district may partner with a state-supported institution of higher education and technical institute to provide concurrent courses and/or technical education options for academic learning to students in grades eight through twelve (8-12).

4.01.2 An ALE shall provide intervention services designed to address students' specific educational and behavioral needs.

4.01.2.1 Intervention services shall include, without limitation, access to the services of a school counselor, a mental health professional, a nurse, and support services substantially equivalent to those provided to other students in the regular educational environment.

4.01.2.2 Intervention services shall be coordinated with state and federal student assistance programs.

4.01.3 An ALE shall not be punitive but shall provide the guidance, counseling, and academic support necessary to enable students who are experiencing emotional, social, or academic problems to continue to make progress toward educational goals appropriate to each individual student's specific situation, characteristics, abilities, and aspirations.

4.02 ALE Student Eligibility and Placement

4.02.1 To be an eligible ALE student, a student must exhibit two (2) or more of the characteristics identified in Section 4.02.1.1 and Section 4.02.1.2. Students will not be placed in the ALE based on academic problems alone.

4.02.1.1 Situations that negatively affect the student's academic and social progress may include, but are not limited to:

4.02.1.1.1 Ongoing, persistent lack of attaining proficiency levels in literacy and mathematics;

4.02.1.1.2 Abuse: physical, mental, or sexual;

4.02.1.1.3 Frequent relocation of residency;

4.02.1.1.4 Homelessness;

4.02.1.1.5 Inadequate emotional support;

4.02.1.1.6 Mental/physical health problems;

4.02.1.1.7 Pregnancy; or

4.02.1.1.8 Single parenting.

4.02.1.2 Students placed at risk, though intelligent and capable, typically manifest one or more of the following characteristics:

4.02.1.2.1 Personal or family problems or situations;

4.02.1.2.2 Recurring absenteeism;

4.02.1.2.3 Dropping out of school; or

4.02.1.2.4 Disruptive behavior.

4.02.2 A student may be enrolled in an ALE only on the referral of an Alternative Education Placement Team to be composed of the following individuals:

4.02.2.1 The school counselor from the referring school;

4.02.2.2 The building principal or assistant principal from the referring school;

4.02.2.3 One (1) or more of the student's regular classroom teachers;

- 4.02.2.4 A local education agency special education or 504 representative, if applicable;
- 4.02.2.5 A parent or guardian of the student, if they choose to participate; and
- 4.02.2.6 An ALE administrator or ALE teacher, or both.
- 4.02.2.7 At the option of the school district, the student may be included as a member of the Alternative Education Placement Team.
- 4.02.2.8 The school district shall document efforts to contact the parent or guardian to schedule a meeting or a phone call for a placement meeting at the parent or guardian's convenience, and maintain such documentation in the student's Student Action Plan (SAP).

4.02.3 The ALE program shall:

- 4.02.3.1 Assess the student either before or upon entry into the ALE;
- 4.02.3.2 Provide intervention services designed to address the student's specific educational needs; and
- 4.02.3.3 If the student exhibits one (1) or more of the characteristics identified in Section 4.02.1.2, provide non-punitive intervention services designed to address the student's specific behavioral needs for long-term improvement of the student's ability to control his or her behavior.

4.02.4 No later than one (1) week after a student begins alternative education interventions, the Alternative Education Placement Team shall assess the student's current functioning abilities and all relevant social, emotional, academic, career, and behavioral information and develop a Student Action Plan (SAP) outlining the intervention services to be provided to the student. The Student Action Plan shall contain at a minimum:

- 4.02.4.1 A plan of intervention services to be provided to address the student's specific educational needs and, if appropriate, the student's behavioral needs;
- 4.02.4.2 Goals and objectives necessary to achieve positive reintegration into the regular educational environment;

- 4.02.4.3 Exit criteria on which to base a student's return to the regular educational environment; and
 - 4.02.4.4 Documentation of the presence of the characteristics listed in Sections 4.02.1.1 and 4.02.1.2 for which the student was referred.
 - 4.02.4.5 The Student Action Plan may be revised from time to time by the Alternative Education Placement Team as circumstances warrant.
- 4.02.5 No later than five (5) school days after a student begins alternative education interventions, the Alternative Education Placement Team shall develop a signed agreement between the ALE, the parent or guardian (if they choose to participate), and the student, outlining the responsibilities of the ALE, parent or guardian, and the student to provide assurance that the plan for each student is successful.
- 4.02.6 A positive behavior or transitional plan shall be developed and added to the Student Action Plan prior to a student's return to the regular educational environment.

4.03 ALE Personnel Requirements

- 4.03.1 Administrative, teaching, and other personnel in an ALE shall meet appropriate State licensure and renewal requirements for the positions to which they are assigned.
- 4.03.2 Every classroom in an ALE program shall maintain student/teacher ratios as follows:
 - 4.03.2.1 For grades kindergarten through six (K-6), no more than ten (10) students to one (1) teacher. If a paraprofessional is employed in addition to a licensed teacher, the student/teacher ratio shall be no more than twelve (12) to one (1).
 - 4.03.2.2 For grades seven through twelve (7-12), no more than fifteen (15) students to one (1) teacher. If a paraprofessional is employed in addition to a licensed teacher, the student/teacher ratio shall be no more than eighteen (18) to one (1).
 - 4.03.2.2.1 For physical education courses that lend themselves to large group instruction, this ratio may be increased up to thirty (30) students to

one (1) teacher when a paraprofessional is employed in addition to a licensed teacher.

4.03.2.3 In a middle school where the grade configuration includes grades five (5) or six (6), or both, the student/teacher ratios for grades seven through twelve (7-12) may be applied.

4.03.3 An ALE shall establish plans for professional development and in-service training for all licensed personnel working in the ALE in a teaching or administrative capacity.

4.03.3.1 Professional development and in-service training for ALE personnel shall include training in classroom management, and training in additional areas related to the specific needs and characteristics of students in alternative education environments.

4.03.3.2 All licensed personnel working in an ALE shall participate in specific alternative education professional development as part of the six (6) days required annually for licensed personnel by the Department's Rules Governing Professional Development.

4.03.3.3 The Department shall award professional development credit for programs provided under this Section 4.03.4 and approved pursuant to the Department's Rules Governing Professional Development.

4.03.4 Wages, salaries or benefits may be paid out of ALE funds only to the extent of the time devoted by an employee to direct supervision of or direct work in an eligible ALE program.

4.04 ALE Curriculum and Program Requirements

4.04.1 An ALE shall assess each ALE student either before or upon entry into the ALE with effective, research-based assessment tools to determine the student's current academic capability.

4.04.2 An ALE shall provide a curriculum including mathematics, science, social studies, and language arts aligned with the regular classroom instruction. Reading, writing, and mathematics shall be incorporated into all curriculum areas.

4.04.2.1 An ALE shall use the curriculum frameworks adopted by the Department to plan instruction leading to student demonstration of proficiency in the Arkansas content standards.

- 4.04.3 As an alternative to the curriculum required by Section 4.04.2, an ALE may allow an individual student to instead pursue a curriculum aligned with the standards for high school equivalency tests, subject to the following conditions:
 - 4.04.3.1 The student must be sixteen (16) years of age or older;
 - 4.04.3.2 The student must lack sufficient credits to graduate by the time the student turns eighteen (18) years of age; and
 - 4.04.3.3 The student's parent or guardian, or the student if the student is eighteen (18) years of age or older, must consent in writing.
- 4.04.4 Computer-based instruction and distance learning may be used only as a supplement to direct teacher instruction and must constitute less than forty-nine percent (49%) of total instructional time in any one (1) course. This restriction shall not apply to distance learning or computer-based instruction approved by the Department.
- 4.04.5 All students attending an ALE operated by a consortium of school districts shall follow the lead district's school calendar. All students attending an ALE operated by an education service cooperative shall follow a school calendar designated by the cooperative.
- 4.04.6 An ALE shall be furnished with the equipment and instructional materials necessary to provide the environment and working conditions appropriate for subjects or activities assigned.
- 4.04.7 Meals provided at ALE facilities shall follow the Arkansas Child Nutrition guidelines or shall be approved by the Child Nutrition Unit of the Department.
- 4.04.8 An In-School Suspension (ISS) program for a regular educational environment may not be located in an ALE classroom.
- 4.05 ALE Program Approval, Reporting, and Monitoring
 - 4.05.1 Each ALE program shall submit to the Department every three (3) years, in electronic format, a program description documenting the program's compliance with Ark. Code Ann. § 6-48-101 *et seq.* and these Rules. Program descriptions are due before March 31 of the year assigned by the Department.
 - 4.05.1.1 ALE programs operating in separate facilities, even if located within the same school district, are deemed to be separate

individual programs requiring separate approval and separate reporting.

- 4.05.1.2 Deviations from prior approved ALE program descriptions must be submitted to the Department for review and formal approval.
- 4.05.2 On or before March 31, according to a three (3) year cycle established by the Department's ALE Unit, each school district shall submit to the Department, in electronic format, an assurance statement, signed physically or electronically by the superintendent of the district, that the school district is in compliance with Ark. Code Ann. § 6-48-101 *et seq.* and these Rules.
- 4.05.3 On or before March 31, according to a three (3) year cycle established by the Department's ALE Unit, each ALE program operated by a consortium of school districts or by an education service cooperative shall submit to the Department, in electronic format:
 - 4.05.3.1 A list of all school districts participating in the ALE; and
 - 4.05.3.2 A copy of the contract agreement or memorandum of understanding governing the ALE program and entered into by the participating school districts and, if applicable, the education service cooperative.
- 4.05.4 Annually, the Department shall compile annual report data for each ALE program utilizing Arkansas Public School Computer Network student management data. The data compiled shall include:
 - 4.05.4.1 The number of students, subdivided by race, gender, and grade level, enrolled in an ALE program at any time during that school year;
 - 4.05.4.2 The number of students enrolled in an ALE program who returned to the regular educational environment, who dropped out of school, who graduated, or who received a high school equivalency diploma;
 - 4.05.4.3 The number of high school students graduating in that school year who, over their entire grades kindergarten through twelve (K-12) career, were enrolled in an ALE for a total of twenty (20) or more days;
 - 4.05.4.4 The number of students enrolled in an ALE program and participating in Workforce/Secondary Career Centers;

- 4.05.4.5 The number of students enrolled in an ALE program and receiving special education services;
 - 4.05.4.6 The number of students enrolled in an ALE program who had previously exited an ALE program in the second or third prior school year;
 - 4.05.4.7 The total amount of all funds expended to operate the ALE program for that school year; and
 - 4.05.4.8 The total amount of ALE funding received for that school year.
 - 4.05.4.9 The total number of ALE students per district with grade improvements after beginning the ALE intervention program.
 - 4.05.4.10 The total number of ALE students per district with attendance improvements after beginning the ALE program.
 - 4.05.4.11 The total number of ALE high school students per district with improved credit attainment after participating in the ALE intervention program.
- 4.05.5 After June 15 of each year, the Department may direct a district to provide the annual report data required under Section 4.05.4 if the information sought is not readily ascertainable from Arkansas Public School Computer Network student management data.
- 4.05.6 To be eligible for ALE funding under Section 4.06 below, an ALE program shall be approved annually by the Department.
- 4.05.6.1 Program approval shall be contingent on a satisfactory review of the program description, annual report data, and assurance statement submitted pursuant to this Section 4.05.
 - 4.05.6.2 Program approval shall be for a term of up to three (3) years, running from July 1 or the date of program approval, whichever is later, through June 30 of the designated year.
 - 4.05.6.3 The Department shall give notice of approval or disapproval of an ALE program no later than July 15 of the year of program approval according to the posted three (3) year cycle, contingent on the ALE program timely submitting all required information.

- 4.05.7 Each school district shall submit a description of the ALE program(s) utilized by its students.
 - 4.05.7.1 The Arkansas Comprehensive School Improvement Plan (ACSIP) will include a general description of how the funds will be spent.
 - 4.05.7.2 Each school district shall evaluate programs supported by ALE funds annually to ensure that the programs are providing a non-punitive environment that is conducive to learning, that eliminates traditional barriers to learning, and that complies with these Rules.
 - 4.05.7.3 The total ALE funds shall be budgeted in the school district's financial management software.
- 4.05.8 As part of the Department's accreditation review of each school district under Ark. Code Ann. § 6-15-202, the Department shall evaluate each ALE to ensure that the ALE is:
 - 4.05.8.1 Established and operated in compliance with these Rules and Ark. Code Ann. § 6-48-101 *et seq.*; and
 - 4.05.8.2 Effective under the measurements established by the Department.
- 4.05.9 The Department shall identify a school district's noncompliance on the school district's annual report card.
- 4.05.10 The Department shall identify information concerning best practices for educating students in Alternative Learning Environments and disseminate that information to teachers and administrators working in Alternative Learning Environments.
- 4.05.11 On or before September 15 of each year, the Department shall provide to the House Interim Committee on Education and the Senate Interim Committee on Education a report on:
 - 4.05.11.1 The information reported to it under Section 4.05; and
 - 4.05.11.2 The effectiveness of ALE programs evaluated by the Department.

4.06 ALE Funding

4.06.1 The ALE funding amount shall be the amount authorized by law multiplied by the district's eligible ALE students' full-time equivalents (FTE) in the previous school year as defined in these Rules.

4.06.2 An ALE student shall be counted as no more than one (1) student for ALE funding purposes.

4.06.3 An eligible ALE student's FTE shall be calculated as follows: the sum of (the total number of days an eligible ALE student attends an eligible ALE, plus the total number of days absent while enrolled in an eligible ALE program) divided by the number of school days actually taught in the district's school year.

4.06.3.1 If an eligible ALE student has less than six (6) hours per day of student/teacher interaction time in an eligible ALE, the student's FTE shall be calculated as the result of the calculation in Section 4.06.3 multiplied by the number of hours that student is taught in an eligible ALE each day divided by six (6) hours.

4.06.3.2 In no case shall an eligible ALE student's FTE be calculated as greater than 1.0.

4.06.3.3 If an eligible ALE student is educated in an eligible ALE for fewer than twenty (20) consecutive days, no ALE funding may be paid for that student, unless:

4.06.3.3.1 The student leaves the school district to transfer to another eligible ALE and is enrolled in an ALE for a combined total of twenty (20) or more consecutive days; or

4.06.3.3.2 The student is placed in a residential treatment program.

4.06.3.3.3 No school district may receive ALE funding for an eligible ALE student for any day the student is not enrolled in an eligible ALE in that district.

4.06.4 ALE funding is restricted state aid.

4.06.5 ALE funding shall be spent on eligible ALE programs identified in these Rules except as otherwise allowed by law or rule.

4.06.6 ALE funding may be carried over from one fiscal year to the next but these funds shall remain restricted to the priority areas as defined in these Rules except as otherwise allowed by law or rule.

5.00 Special Needs - English Language Learners (ELL)

5.01 The ELL funding amount shall be the amount authorized by law multiplied by the district's identified ELL students in the current school year.

5.01.1 The number of identified ELL students shall be a total of all students identified as not proficient in the English language based upon approved English proficiency assessment instruments.

5.01.2 Documentation to be used for the calculation of the number of identified ELL students must be submitted to the Department no later than November 1 of each school year.

5.01.3 An ELL student shall be counted as no more than one (1) student for ELL funding purposes.

5.02 School districts shall maintain documentation of each student identified as an ELL.

5.03 For ELL funding purposes, State-approved English proficiency assessment instruments include:

5.03.1 LAS (Language Assessment Scales);

5.03.2 Maculaitis/MAC II Assessment of Competencies; and

5.03.3 English Language Development Assessment English Language Proficiency Screener/TELEPA.

5.04 ELL funding shall be expended for eligible activities including, but not limited to, the following:

5.04.1 Salaries for ELL-skilled instructional services (not supplanting district financial obligations for providing teachers for ELL students).

5.04.2 Funds for teacher training, consultants, workshops, and ELL course work, including ADE-sponsored training programs.

5.04.3 Released-time for ELL program development.

- 5.04.4 Selection and purchase of language-appropriate instructional and supplemental (enrichment) materials for ELL students, including computer-assisted technology and library materials.
- 5.04.5 Language and cultural skills training for school-based health service providers, counseling service providers, and community liaison staff as needed to serve ELL students.
- 5.04.6 Assessment activities, which include test administration, identification, placement, and review of ELL student academic progress, as well as evaluation activities to determine the effectiveness of the district's ELL program.
- 5.04.7 Funds for the implementation of supplemental instructional services for ELL students.
- 5.05 ELL funding may be carried over from one fiscal year to the next, but these funds shall remain restricted to those priority areas defined in these Rules except as otherwise allowed by law or rule.
- 5.06 A description of ELL activities and funding shall be included in the district's Arkansas Comprehensive School Improvement Plan (ACSIP).
 - 5.06.1 The total ELL funds shall be budgeted in the school or school district's financial management software.

6.00 Special Needs - National School Lunch Act

- 6.01 Except as provided in Sections 6.01.5 and 6.01.6.2 of these Rules, national school lunch state categorical funding under Ark. Code Ann. § 6-20-2305(b)(4) shall be based on the number of national school lunch students for the immediately preceding school year determined under Section 3.21 of these Rules, divided by the district's total enrolled students for the immediately preceding school year. If the school district is a Provision 2 district, this funding is based on the school district's percentage of national school lunch students submitted in the base year, multiplied by the number of enrolled students for the immediately preceding school year. If the school district is a Community Eligibility Provision (CEP) district, this funding is based on the school district's percentage of national school lunch students submitted in the year prior to implementing CEP, multiplied by the number of enrolled students for the immediately preceding school year. If a school district, open-enrollment public charter school, or school within a district or charter is changing from Provision 2 to CEP, the national school lunch state categorical funding percentage used during the final year of Provision 2 will be the national school lunch state categorical funding percentage for the four (4) year CEP cycle and the year following the four (4) year CEP cycle. For determination of the per-student

amount of national school lunch state categorical funding, the percentage shall be calculated to one tenth of one percent (0.1%), and rounded up to the nearest whole number from five tenths of one percent (0.5%) or above or down to the nearest whole number from less than five tenths of one percent (0.5%).

6.01.1 For school districts in which ninety percent (90%) or greater of the previous school year's enrolled students are national school lunch students, per student national school lunch state categorical funding shall be the amount authorized by Ark. Code Ann. § 6-20-2305(b)(4)(A)(i).

6.01.2 For school districts in which less than ninety percent (90%) but at least seventy percent (70%) of the previous school year's enrolled students are national school lunch students, per student national school lunch state categorical funding shall be the amount authorized by Ark. Code Ann. § 6-20-2305(b)(4)(A)(ii).

6.01.3 For school districts in which less than seventy percent (70%) of the previous school year's enrolled students are national school lunch students, per student national school lunch state categorical funding shall be the amount authorized by Ark. Code Ann. § 6-20-2305(b)(4)(A)(iii).

6.01.4 Districts must participate in the United States Department of Agriculture's National School Lunch Program to receive national school lunch state categorical funding.

6.01.5 For an open-enrollment public charter school in its initial year of operation or in any year in which the charter school adds a grade level, per-student national school lunch state categorical funding under Ark. Code Ann. § 6-20-2305 (b)(4) shall be based on the school's current school year enrollment as of October 1.

6.01.6 Calculating Percentage of National School Lunch Students for Districts Wherein at Least One School—But Not the Entire District—Uses Provision 2 and/or at Least One School—But Not the Entire District—Uses CEP:

6.01.6.1 For some districts, calculating the district's percentage of national school lunch students for any one (1) fiscal year will require combining data from schools in the district, each of which may accept surveys or may use a different method to calculate that school's percentage as a result of that school's participation in Provision 2 or the Community Eligibility Provision (CEP) of the National School Lunch Program. The method for calculating the district-wide percentage of national school lunch students for a district that is composed

of at least one school which participates in Provision 2 and/or CEP is detailed using the following examples:

6.01.6.1.1 In the first example, a school district has two elementary schools, the first of which accepts surveys in the traditional method of calculating its percentage of national school lunch students and the second of which is in its second year of participating in Provision 2. The district's middle school and high school are in the second year of participating in Provision 2.

For illustrative purposes:

- Elementary 1 – Of an enrollment of 600, 510 are national school lunch students, yielding 85%.
- Elementary 2 – Enrollment is 500. The Provision 2 base year percentage is 80%.
- Middle School – Enrollment is 1,000. The Provision 2 base year percentage is 70%.
- High School – Enrollment is 1,200. The Provision 2 base year percentage is 75%.
- To calculate the district-level base year percentage, multiply the enrollment of each school participating in Provision 2 by the base year percentage of each of those schools to arrive at counts of eligible national school lunch students at each school (Elementary 2 – 400; Middle School – 700; High School – 900). Add the eligible count of all schools together to arrive at the school district eligible count of 2,510 (510 + 400 + 700 + 900) and divide by the total school district enrollment of 3,300 to arrive at the district-level base year percentage of 76% (rounded). This will be used as the district's national school lunch state categorical funding percentage for the fiscal year.

6.01.6.1.2 In the second example, a school district has two elementary schools, both of which accept surveys in the traditional method of calculating the percentage of national school lunch students. Both the district's middle school and high school would have been in the second year of

Provision 2 status, but instead are implementing CEP.

For illustrative purposes:

- Elementary 1 – Of an enrollment of 550, 440 are national school lunch students, yielding 80%.
- Elementary 2 – Of an enrollment of 400, 220 are national school lunch students, yielding 55%.
- Middle School – Enrollment is 800. The Provision 2 base year percentage of 75% will become the school-level CEP base year percentage.
- High School – Enrollment is 1,100. The Provision 2 base year percentage of 80% will become the school-level CEP base year percentage.
- To calculate the district-level base year percentage, multiply the enrollment of each school participating in CEP by the base year percentage of each of those schools to arrive at counts of eligible national school lunch students at each school (Middle School – 600; High School – 880). Add the eligible count of all schools together to arrive at the school district eligible count of 2,140 (440 + 220 + 600 + 880) and divide by the total school district enrollment of 2,850 to arrive at the district-level base year percentage of 75% (rounded). This will be used as the district’s national school lunch state categorical funding percentage for the fiscal year.

6.01.6.1.3 In the third example, a school district has two elementary schools, the first of which accepts surveys in the traditional method of calculating its percentage of national school lunch students and the second of which is in its second year of participating in Provision 2. The district’s middle school would have been in its second year of Provision 2 status, but instead is implementing CEP. The district’s high school is in its second year of participating in Provision 2.

For illustrative purposes:

- Elementary 1 – Of an enrollment of 650, 390 are national school lunch students, yielding 60%.
- Elementary 2 – Enrollment is 450. The Provision 2 base year percentage is 80%.
- Middle School – Enrollment is 900. The Provision 2 base year percentage of 70% will become the school-level CEP base year percentage.
- High School – Enrollment is 1,600. The Provision 2 base year percentage is 90%.
- To calculate the district-level base year percentage, multiply the enrollment of each school participating in Provision 2 or CEP by the base year percentage of each school to arrive at counts of eligible national school lunch students at each school (Elementary 2 – 360; Middle School – 630; High School – 1,440). Add the eligible count of all schools together to arrive at the school district eligible count of 2,820 (390 + 360 + 630 + 1,440) and divide by the total school district enrollment of 3,600 to arrive at the district-level base year percentage of 78% (rounded). This will be used as the district's national school lunch state categorical funding percentage for the fiscal year.

- 6.01.6.2 If implementing CEP in a year that national school lunch state categorical funding is based on current year October 1 data, open-enrollment public charter schools will be required to accept and report Alternative Income Forms by October 1 from all students in the school to enable calculation of national school lunch state categorical funding. The number of students eligible for national school lunch state categorical funding as determined by the Alternative Income Forms is used to determine the CEP base year percentage. This percentage is used every year of the four (4) year CEP cycle and, if the charter is then-funded using previous year data, the year following the four (4) year CEP cycle.
- 6.01.6.3 For a school district or open-enrollment public charter school that opens a new school that participates in CEP in its first year of operation, district-level national school lunch state categorical funding is calculated using previous year data. For

the second year in operation, the school would need to accept and report Alternative Income Forms by October 1 from all students. This would establish the CEP base year percentage for the school that would be in effect for the remainder of the four (4) year CEP cycle and the year following the four (4) year CEP cycle.

6.01.6.4 For districts and schools wishing to renew the CEP cycle, during the fourth year of the four (4) year CEP cycle, if there is a difference of five percentage points or greater between the percentage of Identified Students in the April calculations from the Child Nutrition Unit, multiplied by the CEP multiplier, and the current national school lunch state categorical funding percentage, then a new national school lunch state categorical funding percentage would need to be calculated. The new percentage would be calculated in the following year (Year Five [5]), by accepting and reporting Alternative Income Forms by October 1. The number of eligible students is divided by the October 1 enrollment. This new percentage would be applicable during Year Six (6) and the duration of the four (4) year CEP cycle (Years Six [6], Seven [7], and Eight [8], and, if renewed, Year Nine [9]). If there is a difference of less than five percentage points between the percentage of Identified Students in the April calculations from the Child Nutrition Unit, multiplied by the CEP multiplier, and the current national school lunch state categorical funding percentage, then the national school lunch state categorical funding percentage used during the fourth year of the CEP cycle would be used for the following four (4) year CEP cycle and, if renewed, the year immediately following that cycle. The method for calculating the district-wide percentage of national school lunch students for a district that experiences a change of at least five percentage points in one direction or the other is detailed using the following examples:

6.01.6.4.1 In the first example, School District A's percentage of Identified Students in the April calculations from the Child Nutrition Unit, multiplied by the CEP multiplier shows a seven percentage point change over the current national school lunch state categorical funding percentage. To establish a new national school lunch state categorical funding percentage, School District A must accept and report Alternative Income Forms by October 1 of Year Five (5). The district reports its number of

eligible students, which is then divided by the enrollment from October 1 of Year Five (5) to establish its new district-wide percentage of national school lunch students. This new percentage would be applicable during Year Six (6) and the duration of the four (4) year CEP cycle (Years Six [6], Seven [7], and Eight [8], and, if renewed, Year Nine [9]).

For illustrative purposes:

- Year Four (current year) – The district-wide percentage was seventy percent (70%), as it had been for the previous three (3) years of the district’s CEP cycle. In the April calculations of Identified Students, the district’s percentage was reported as seventy-seven percent (77%) after applying the CEP multiplier, triggering the need to accept and report Alternative Income Forms the following year.
- Year Five – The district-wide percentage remained at seventy percent (70%) while Alternative Income Forms were accepted and reported by October 1. A new calculation of 1,500 eligible students divided by the enrollment from October 1 of Year Five, totaling 2,000, yielded seventy-five percent (75%) as the new district-wide percentage.
- Years Six Through Eight (6-8) and, if Renewed, Year Nine (9) – The district-wide percentage would be seventy-five percent (75%).

6.01.6.4.2 In the second example, School District B’s percentage of Identified Students in the April calculations from the Child Nutrition Unit, multiplied by the CEP multiplier shows an eight percentage point change under the current national school lunch state categorical funding percentage. To establish a new national school lunch state categorical funding percentage, School District A must accept and report Alternative Income Forms by October 1 of Year Five (5). The district reports its number of eligible students, which is then divided by the

enrollment from October 1 of Year Five (5) to establish its new district-wide percentage of national school lunch students. This new percentage would be applicable during Year Six (6) and the duration of the four (4) year CEP cycle (Years Six [6], Seven [7], and Eight [8], and, if renewed, Year Nine [9]).

For illustrative purposes:

- Year Four (current year) – The district-wide percentage was eighty percent (80%), as it had been for the previous three (3) years of the district’s CEP cycle. In the April calculations of Identified Students, the district’s percentage was reported as seventy-two percent (72%) after applying the CEP multiplier, triggering the need to accept and report Alternative Income Forms the following year.
- Year Five – The district-wide percentage remained at eighty percent (80%) while Alternative Income Forms were accepted and reported by October 1. A new calculation of 1,520 eligible students divided by the enrollment from October 1 of Year Five, totaling 2,000, yielded seventy-six percent (76%) as the new district-wide percentage.
- Years Six Through Eight (6-8) and, if Renewed, Year Nine (9) – The district-wide percentage would be seventy-six percent (76%).

6.01.6.5 If a school district, open-enrollment public charter school, or school(s) transitions from CEP, the national school lunch state categorical funding percentage used during the last full year the school district, open-enrollment public charter school, or school(s) participated in CEP will be used for the year following the year of discontinuance of CEP.

6.01.6.6 Alternative Income Forms used for national school lunch state categorical funding must have the following information verified:

6.01.6.6.1 The minimum standard sample size of three percent (3%) for all Alternative Income Forms

approved by the open-enrollment public charter school or school district for the school year, as of October 1 of the school year; and

6.01.6.6.2 Income verification procedures concerning income verification used for free and reduced-price meal applications.

6.01.6.6.3 Alternative Income Forms are considered part a student's education record and therefore all confidentiality procedures of FERPA should be followed. Privacy/security procedures concerning free and reduced-price meal applications are recommended in relation to the Alternative Income Forms.

6.02 Except as provided in Section 6.02.3 of these Rules, the district percentage of NSLA eligible students shall be determined from the Arkansas Public School Computer Network's Cycle 2 report for the previous school year.

6.02.1 The Child Nutrition Unit of the Department shall verify the Cycle 2 report for accuracy.

6.02.2 Adjustments to the Cycle 2 report shall be made by the Department based on documentation provided by the school district.

6.02.3 For an open-enrollment public charter school in its initial year of operation or in any year in which the charter school adds a grade level, the school's percentage of NSLA eligible students shall be determined by the school's free or reduced-price meal eligibility data as reported by October 1 of the current school year.

6.03 National School Lunch State Growth Funding:

6.03.1 The Department shall use the Cycle 2 enrollment data for the previous four (4) years to calculate a three (3) year trend in district enrollment.

6.03.2 If a district has grown at least one percent (1%) for each of the three (3) previous years, it shall qualify for National School Lunch State Growth Funding.

6.03.3 Districts that qualify for funding shall receive National School Lunch State Growth Funding.

6.03.4 The funding shall be calculated as the three (3) year average growth in enrollment multiplied by the district's previous year's percentage of

students eligible for the United States Department of Agriculture's National School Lunch Program multiplied by the per student funding amount determined in Section 6.01.

6.04 Transitional National School Lunch State Funding Methods:

6.04.1 If a school district would receive, in the current school year, national school lunch state categorical funding under Ark. Code Ann. § 6-20-2305(b)(4)(A) that is based on a different per student amount of national school lunch state categorical funding than the school district received in the immediately preceding school year, due to a percentage change in national school lunch students, the Department shall adjust the funding to the school district in a transitional three (3) year period.

6.04.2 The amount of national school lunch state categorical funding under Ark. Code Ann. § 6-20-2305(b)(4)(A) shall be increased or decreased in each year of a three (3) year transition period by one-third (1/3) of the difference between the amount of national school lunch state categorical funding per student for the current year and the amount of national school lunch state categorical funding per student for the immediately preceding year, adjusted for changes to the funding rates in Ark. Code Ann. § 6-20-2305(b)(4)(A).

6.04.3 The method of transition for a school district that experiences a decrease in the amount of national school lunch state categorical funding per student under Ark. Code Ann. § 6-20-2305(b)(4)(A) is detailed using the following example of a decrease in national school lunch state categorical funding per student from \$1,562.00 in the immediately preceding year to \$1,042.00 in the current year:

For illustrative purposes:

- Year One (current year) of transition (decrease 1/3) – The transitioned amount of national school lunch state categorical funding per student is \$1,388.67 (\$1,562.00 - \$173.33).
- Year Two of transition (decrease 1/3) – The transitioned amount of national school lunch state categorical funding per student is \$1,215.34 (\$1,388.67 - \$173.33).
- Year three (final year) of transition (decrease 1/3) – The transitioned amount of national school lunch state categorical funding per student is \$1,042.00 (\$1,215.34 - \$173.34).

6.04.4 The method of transition for a school district that experiences an increase in the amount of national school lunch state categorical funding per student under Ark. Code Ann. § 6-20-2305(b)(4)(A) is detailed using the following example of an increase in national school lunch state

categorical funding per student from \$1,042.00 in the immediately preceding year to \$1,562.00 in the current year:

For illustrative purposes:

- Year One (current year) of transition (increase 1/3) – The transitioned amount of national school lunch state categorical funding per student is \$1,215.33 ($\$1,042.00 + \173.33).
- Year Two of transition (increase 1/3) – The transitioned amount of national school lunch state categorical funding per student is \$1,388.66 ($\$1,215.33 + \173.33).
- Year Three (final year) of transition (increase 1/3) – The transitioned amount of national school lunch state categorical funding per student is \$1,562.00 ($\$1,388.66 + \173.34).

6.04.5 The method of transition for a school district that, within a three (3) year period, experiences both a decrease and an increase in the amount of national school lunch state categorical funding per student under Ark. Code Ann. § 6-20-2305(b)(4)(A) is detailed using the following examples:

6.04.5.1 In the first example, a school district experiences an *increase* in national school lunch state categorical funding per student from \$1,042.00 in the immediately preceding year to \$1,562.00 in the current year, and a *decrease* to \$1,042.00 in the following year. In this instance, the transition is completed in two (2) years rather than three (3).

For illustrative purposes:

- Year One (current year) of transition (increase 1/3) – The transitioned amount of national school lunch state categorical funding per student is \$1,215.33 ($\$1,042.00 + \173.33).
- Year Two (final year) of transition (decrease 1/3) – The transitioned amount of national school lunch state categorical funding per student is \$1,042.00 ($\$1,215.33 - \173.33).

6.04.5.2 In the second example, a school district experiences a decrease in national school lunch state categorical funding per student from \$1,042.00 in the immediately preceding year to \$522.00 in the current year, no change in the second year, and an increase to \$1,042.00 in the third year. In this instance, the transition is completed in four (4) years rather than three (3).

For illustrative purposes:

- Year One (current year) of transition (decrease 1/3) – The transitioned amount of national school lunch state categorical funding per student is \$868.67 (\$1,042.00 - \$173.33).
- Year Two of transition (decrease 1/3) – The transitioned amount of national school lunch state categorical funding per student is \$695.34 (\$868.67 - \$173.33).
- Year Three of transition (increase 1/3) – The transitioned amount of national school lunch state categorical funding per student is \$868.67 (\$695.34 + \$173.33).
- Year Four (final year) of transition (increase 1/3) – The transitioned amount of national school lunch state categorical funding per student is \$1,042.00 (\$868.67 + \$173.33).

6.05 Each school district receiving national school lunch state categorical funds shall provide research-based program(s) or purpose(s) for students scoring below proficiency in order to improve instruction and increase academic achievement of those students. This does not prohibit use of funds in performing schools to continue doing those strategies that are sustaining that performance.

6.05.1 A chronically underperforming school's Arkansas Comprehensive School Improvement Plan (ACSIP) shall provide for the use of national school lunch state categorical funding to fund without limitation the following:

6.05.1.1 Use of an Arkansas Scholastic Audit.

6.05.1.2 Use of disaggregated school data to set academic targets in reading, writing, mathematics, and science.

6.05.1.3 Use of improvement targets to define professional development needs related to content, instruction, differentiation, and best practices in educating student subgroups as identified in need.

6.05.1.4 Development of interim building-level assessments to monitor student progress toward proficiency on the state benchmark assessments.

6.05.1.5 Development of a plan to immediately address gaps in learning.

- 6.05.1.6 Examination and realignment, as needed, of school scheduling, academic support systems, and assignment of personnel to improve student achievement.
 - 6.05.1.7 Design of a plan for increasing parental knowledge and skill to support academic objectives.
 - 6.05.1.8 Evaluation of the impact of the before-mentioned educational strategies on student achievement.
- 6.06 National school lunch state categorical funding shall not be used to meet or satisfy the Arkansas Standards for Accreditation of Arkansas Public Schools and School Districts as required by Ark. Code Ann. § 6-15-201 *et seq.* or the Arkansas Minimum Teacher Salaries required by Ark. Code Ann. § 6-17-2403 except as otherwise allowed herein.
- 6.06.1 National school lunch state categorical funding shall not be used to augment, replace, or supplement the mandatory requirements of the Arkansas Standards for Accreditation required by Ark. Code Ann. § 6-15-201 *et seq.* unless the expenditure is for the purposes outlined under Section 6.07 of these Rules.
 - 6.06.2 A district may use excess national school lunch state categorical funds as a bonus or to supplement salaries above the minimum salary schedule required by Ark. Code Ann. § 6-17-2403 provided the school district is in compliance with and meets the eligibility provision of these Rules.
 - 6.06.3 School districts may use national school lunch state categorical funds to pay the salaries of those teachers used to reduce the pupil-to-teacher ratio below the mandates required by the Arkansas Standards for Accreditation of Arkansas Public Schools and School Districts under the following conditions:
 - 6.06.3.1 The district must designate the specific teacher(s) used to reduce the pupil-to-teacher ratios required by the Standards for Accreditation; must explain how the district will use national school lunch state categorical funds to pay only the salaries of those class-size-reduction teachers or other teachers whose salaries are designated by the Department as bona fide national school lunch state categorical program or purpose expenditures as allowed by Section 6.07 of these Rules; and must explain how the district will use class-size-reduction teachers(s) pursuant to a recognized published research-based program to specifically target an identified academic deficiency or need of the district which aligns with and supports the district's needs;

- 6.06.3.2 Any district which did not use national school lunch state categorical funds to support the salaries of class-size-reduction teachers by June 30 in the 2006-2007 school year is limited to using national school lunch state categorical funds to support the salaries of only those class-size-reduction teachers in grades kindergarten through eight (K-8), provided the district submits a detailed written plan, as required in Section 6.06.3.1, which is approved by the Department; and
 - 6.06.3.3 Along with any request to expand or increase from a previous school year the use of national school lunch state categorical funds to pay for or support the salaries of class-size-reduction teachers, the district shall submit a written justification showing how the funds are being used to address an increased academic deficiency or need of the district and is not an attempt to avoid or circumvent the general purpose of reducing the amount of national school lunch state categorical funds used to increase teacher salaries as required and mandated by Ark. Code Ann. § 6-20-2305.
 - 6.06.3.4 National school lunch state categorical funds to support the salaries of the class-size reduction teachers shall be used only to reduce the pupil-to-teacher ratios required by the Standards for Accreditation for each single grade level.
- 6.07 National school lunch state categorical funding shall be expended for eligible program(s) or purpose(s) that are research-based and aligned to the Arkansas Content Standards for improving instruction and increasing achievement of students at risk of not meeting challenging academic standards. These programs or purposes include:
- 6.07.1 Employing instructional facilitators or Literacy, Mathematics, or Science Specialists/Coaches (K-12), Data Coaches (K-12), and School Improvement Specialists (K-12) that meet the following requirements:
 - 6.07.1.1 The Specialists/Coaches and instructional facilitators are educators who assist in curriculum alignment with state curriculum documents; alignment of classroom assessment with statewide exams; instructional strategies; professional development and implementation of training; choice of standards-based instructional materials; understanding of current research; advantageous arrangement of the instructional day; and integrating technology into instruction.

- 6.07.1.2 Qualifications for Specialists/Coaches and instructional facilitators:
- A valid Arkansas teaching certificate;
 - At least four (4) years of recent teaching experience in appropriate content areas within grades kindergarten through twelve (K-12);
 - Knowledge of Arkansas Curriculum Frameworks;
 - Knowledge of current research and effective practices in standards-based curriculum, instruction, and assessment;
 - Experience in adult learning situations and in team problem solving; and
 - A bachelor's degree (a master's degree would be preferred); or
 - Completion of the required training and teaching components of the Teach For America Program.
- 6.07.1.3 Qualifications for Data Coaches:
- A valid Arkansas teaching certificate;
 - At least five (5) years of recent teaching experience, administrative experience, or a combination thereof;
 - At least three (3) years of experience using information systems for data retrieval, data reporting, and using data to guide instructional practice;
 - Knowledge of basic statistics and their application;
 - Knowledge and skill of data analysis;
 - Ability to assist building level staff with analysis of school data in preparation of school improvement planning; and
 - A bachelor's degree (a master's degree would be preferred).
- 6.07.1.4 Qualifications for School Improvement Specialists:
- A valid Arkansas teaching certificate
 - At least five (5) years of recent teaching experience, administrative experience, or a combination thereof;
 - Knowledge of effective coaching practices
 - Knowledge of team structures that support shared leadership;
 - Knowledge to understand and interpret assessment data, both formal and informal, to inform instructional decisions;
 - Ability to orchestrate change; and
 - A bachelor's degree (a master's degree would be preferred).
- 6.07.2 Providing research-based professional development in the areas of literacy, mathematics, or science in grades kindergarten through twelve (K-12) subject to the requirements of the Department's Rules Governing Professional Development;

6.07.3 Employing highly qualified classroom teachers in grades kindergarten through twelve (K-12) pursuant to the restrictions set forth in Section 6.06 of these Rules;

6.07.4 Providing research-based before and after-school academic programs, including transportation to and from the programs;

6.07.5 Providing research-based pre-kindergarten programs that meet the program standards as outlined in the Rules Governing the Arkansas Better Chance program;

6.07.6 Employing tutors:

6.07.6.1 Tutors must be able to demonstrate competency (as determined locally) in each area where instruction is provided.

6.07.6.2 Tutors must work under the supervision of highly qualified classroom teachers.

6.07.7 Employing teacher's aides:

6.07.7.1 Teacher's aides must be highly qualified.

6.07.7.2 Teacher's aides must work under the direct supervision of highly qualified classroom teachers.

6.07.8 Employing licensed counselors and nurses above the mandates of the Standards for Accreditation of Arkansas Public Schools and School Districts or other law or rule;

6.07.9 Employing Coordinated School Health coordinators;

6.07.10 Employing human service workers;

6.07.11 Employing Licensed Mental Health Counselors;

6.07.12 Employing Licensed Certified Social Workers or Licensed Social Workers;

6.07.13 Employing Curriculum Specialists:

6.07.13.1 The Curriculum Specialists shall meet current licensure requirements that are outlined in the Rules Governing Initial and Standard Administrator Licensure.

- 6.07.14 Employing School Resource Officers (SROs) whose job duties include research-based methods and strategies tied to improving achievement of students at risk;
- 6.07.15 Providing experience-based field trips;
- 6.07.16 Providing parent education that addresses the whole child;
- 6.07.17 Providing summer programs that implement research-based methods and strategies targeted at closing the achievement gap;
- 6.07.18 Providing early intervention programs, to include:
 - 6.07.18.1 Short-term, intensive, focused, individualized, research-based instruction developed from ongoing, daily, systematic diagnosis that occurs while a child is beginning, in grades kindergarten through one (K-1), the initial stages of learning social skills, early reading, writing, and mathematical strategies to ensure acquisition of the basic skills and to prevent the child from developing poor behavior and problem-solving habits which become difficult to change; and
 - 6.07.18.2 Short-term, intensive, focused, individualized, research-based instruction developed from ongoing, daily, systematic diagnosis in grades three through twelve (3-12) to prevent failure and close the achievement gap.
 - 6.07.18.3 Research-based Response-to-Intervention screening and associated instruction for students with dyslexia, with intervention components including phonemic awareness, graphophonemic knowledge, the structure of the English language, linguistics, language patterns, and strategies for decoding, encoding, word recognition, fluency, and comprehension.
- 6.07.19 Obtaining materials, supplies, and equipment, including technology, used in approved instructional programs or for approved purposes in support of the local education agency's general description for NSLA funding;
- 6.07.20 Paying the expenses of federal child nutrition programs to the extent necessary to provide school meals without charge to all students if the school district is identified by the Department as participating in the

special assistance certification and reimbursement alternative implemented under 42 U.S.C. § 1759(a);

- 6.07.21 Paying the expenses of federal child nutrition programs to the extent necessary to provide school meals without charge to students otherwise eligible for reduced-price meals under federal law or regulations governing the United States Department of Agriculture's National School Lunch Program or School Breakfast Program;
- 6.07.22 Paying expenses directly related to funding a longer school day;
- 6.07.23 Paying expenses directly related to funding a longer school year;
- 6.07.24 Partnering with state-supported institutions of higher education and technical institutes to provide concurrent courses and/or technical education options for academic learning to students while those students are still in high school so that the students are college and career ready upon graduation from high school;
 - 6.07.24.1 Partnerships under Section 6.07.24 shall be evidenced by a written agreement or memorandum of understanding between the school district and institution of higher education and/or technical institute.
- 6.07.25 Providing Teach For America professional development;
- 6.07.26 Implementing components of the Arkansas Advanced Initiative for Math and Science;
- 6.07.27 Employing College and Career Coaches, as defined by the Department of Career Education;
- 6.07.28 Operating or supporting a postsecondary preparatory program authorized under Ark. Code Ann. § 6-16-601 *et seq.*;
- 6.07.29 Expenditures required under Section 6.05.1 of these Rules;
- 6.07.30 Paying for students in grade eleven (11) to take the ACT Assessment, pursuant to the Voluntary Universal ACT Assessment Program, Ark. Code Ann. § 6-18-1601 *et seq.*;
- 6.07.31 Developing and implementing interim building-level assessments to monitor student progress toward proficiency on the state benchmark assessments; and

- 6.07.32 Other activities approved by the Department that will further the purposes of this Section 6.07. Such activities include, but are not limited to, research-based activities and activities directed at chronically underperforming schools.
- 6.08 Use of national school lunch state categorical funds shall be included within the school or school district's ACSIP.
 - 6.08.1 The district shall evaluate programs supported by national school lunch state categorical funds annually to ensure that the programs are providing intervention/prevention services designed to increase student achievement.
 - 6.08.2 The district shall maintain documentation that supports gains in student achievement as measured by the state assessment system.
 - 6.08.3 The total NSLA funds shall be budgeted in the school or school district's financial management software.
- 6.09 National school lunch state categorical funding may be carried over from one fiscal year to the next, but these funds shall remain restricted to priority areas as defined in these Rules or law except as otherwise allowed by law or rule.
- 6.10 National school lunch state categorical funding is restricted state aid, except as otherwise allowed by law or rule.
- 6.11 Use of excess national school lunch state categorical funds to supplement teacher salaries is limited.
 - 6.11.1 School districts that have met the needs of students for whom the national school lunch state categorical funds are provided, and that have excess national school lunch state categorical funds, may request to use the excess national school lunch state categorical funds to supplement teacher salaries under the following conditions:
 - 6.11.1.1 The school district is meeting the minimum teacher salary schedule under Ark. Code Ann. § 6-17-2403 without using national school lunch state categorical funds;
 - 6.11.1.2 The school district is in full compliance with the rules and laws governing the Standards for Accreditation of Arkansas Public Schools and School Districts under Ark. Code Ann. § 6-15-201 *et seq.* and the rules and laws governing the Arkansas Fiscal and Accountability Program under Ark. Code Ann. § 6-20-1901 *et seq.* without using current year, carry-forward or reserve national school lunch state categorical funds;

- 6.11.1.3 The district has met or is meeting the adequate educational needs of students;
 - 6.11.1.4 The district has prudently managed its resources;
 - 6.11.1.5 The district has met all requirements of Section 6.11 of these Rules; and
 - 6.11.1.6 The district has submitted a general description of the uses of national school lunch state categorical funds.
 - 6.11.1.7 The school district shall not use any portion of the national school lunch state categorical funds that are carry-forward or reserve funds as a supplement to classroom teacher salaries.
 - 6.11.1.8 The school district shall not allocate or use any excess national school lunch state categorical funds in any manner except to supplement teacher salaries, unless in accordance with the transfer provisions stated in Section 8.00 of these Rules.
 - 6.11.1.9 Excess national school lunch state categorical funds used as a bonus to supplement teacher salaries shall not be considered a permanent obligation under the school district's teacher salary schedule.
 - 6.11.1.10 If the district used excess national school lunch state categorical funds in the prior year to supplement teacher salaries, the district has submitted the required report on prior year expenditures as required by Section 6.11.5.
 - 6.11.1.11 No more than twenty percent (20%) of the total of current year national school lunch state categorical funds may be used as a supplement to teacher salaries above the minimum teacher salary schedule.
- 6.11.2 A school district requesting to use excess national school lunch state categorical funds to supplement the minimum teacher salary schedule under Ark. Code Ann. § 6-17-2403 shall provide the following information to the Commissioner of Education, or designee, by February 15 of the school year for which approval is requested:
- 6.11.2.1 A statement of assurance attesting to compliance with Section 6.11.1 of these Rules;

- 6.11.2.2 The actual amount of excess national school lunch state categorical funds used to supplement salaries above the required minimum salary schedule in the previous school year, the actual amount of total national school lunch state categorical funds received in the previous school year, and the actual percentage of national school lunch state categorical funds used as a supplement above the required minimum salary schedule to total national school state categorical funds received; and
 - 6.11.2.3 The budgeted amount of excess national school lunch state categorical funds used to supplement salaries above the required minimum salary schedule in the current school year, the budgeted amount of total national school lunch state categorical funds received in the current school year, and the calculated percentage of national school lunch state categorical funds used as a supplement above the required minimum salary schedule to total national school lunch state categorical funds received in the current year.
 - 6.11.2.4 No more than twenty percent (20%) of the total of current year national school lunch state categorical funds may be used as a supplement to teacher salaries above the minimum teacher salary schedule.
 - 6.11.2.5 No school district shall use national school lunch state categorical funds to supplement salaries above the required minimum salary schedule without first obtaining the express written approval of the Commissioner of Education or his/her designee.
- 6.11.3 A school district requesting to use excess national school lunch state categorical funds as a supplement in the form of a bonus, shall provide the following information to the Commissioner of Education, or designee, by February 15 of the school year for which approval is requested:
- 6.11.3.1 A statement of assurance attesting to compliance with Section 6.11.1 of these Rules;
 - 6.11.3.2 The information required in Section 6.11.2, and any other information requested by the Department;
 - 6.11.3.3 The amount of funds to be used as a bonus; and
 - 6.11.3.4 The total amount of national school lunch state categorical funds the district will receive in that year.

- 6.11.3.5 In response to the district's request, the Commissioner of Education shall evaluate the district's test scores against the state averages as one indicator of how the district has met the educational needs of students. Tests may include, but not be limited to, grades third through eight (3-8) state required assessments in math and literacy and state required end-of-course exams for algebra, biology, geometry, and literacy.
 - 6.11.3.6 As additional assessment data becomes available, it may also be included in the Commissioner of Education's review.
 - 6.11.3.7 No school district shall use national school lunch state categorical funds as a bonus without first obtaining the express written approval of the Commissioner of Education or his/her designee.
- 6.11.4 Upon review of the information required in Section 6.11.2, 6.11.3, and any other information requested by the Department, if the Commissioner of Education, or designee, determines the school district has met the needs of students, has prudently managed its resources, and has complied with these Rules and the law, the Commissioner shall give written approval of the use of excess national school lunch state categorical funds to supplement teacher salaries.
- 6.11.4.1 Such approval is limited to one school year.
- 6.11.5 By September 15 of each school year, any school district that received written approval to use national school lunch state categorical funds as a supplement to teacher salaries in the previous school year shall issue a written report to the Commissioner of Education listing:
- 6.11.5.1 Each program upon which national school lunch state categorical funds were expended;
 - 6.11.5.2 The actual amount of national school lunch state categorical funds expended on each program; and
 - 6.11.5.3 Information required in Section 6.11.2 and 6.11.3, and any other information requested by the Department.
- 6.11.6 Only those school districts which previously used or applied excess national school lunch state categorical funds to supplement the teacher salary schedule for all classroom teachers in the district as part of a salary obligation may continue to use national school lunch state categorical funds as a salary obligation to the extent the district has

received approval from the Commissioner of Education under Section 6.12 and the district is in full compliance with these Rules.

6.12 Monitoring and Compliance for Use of NSLA Funds:

6.12.1 At any time during a school year, the Department may review:

6.12.1.1 A school district's ACSIP;

6.12.1.2 Reports and information required by these Rules;

6.12.1.3 Test data;

6.12.1.4 Financial data; and

6.12.1.5 Other indicators of a school district's compliance with these Rules and with the purpose of meeting the needs of students served by national school lunch state categorical funds.

6.12.2 Upon review, the Commissioner of Education or his/her designee may take one or both actions allowed by Section 6.12.3 if the Commissioner determines that a school district:

6.12.2.1 Has not met the needs of students that may be served by national school lunch state categorical funds;

6.12.2.2 Provided false or misleading information; or

6.12.2.3 Failed to comply with the provisions of the district's submitted plans without obtaining ADE approval.

6.12.3 Upon a determination under Section 6.12.2 above, the Commissioner of Education may:

6.12.3.1 Require that any and all national school lunch state categorical funds dedicated for use or application as a bonus shall be removed from and not used as a bonus; or

6.12.3.2 Require the school district to redirect the national school lunch state categorical funds to meet other educational needs of the students of that district.

6.13 By June 30 of each year, a school district shall expend a minimum of eighty-five percent (85%) of the school district's current-year national school lunch state categorical funding allocation in a manner permitted under these Rules.

- 6.13.1 A school district that, on June 30, 2012, has a national school lunch state categorical funding balance in excess of fifteen percent (15%) of the school district's current year national school lunch state categorical funding allocation shall reduce its total national school lunch state categorical funding balance by at least ten percent (10%) each year so that by June 30, 2022, and by June 30 of each year thereafter, the school district has a balance of no more than fifteen percent (15%) of the school district's current year national school lunch state categorical funding allocation.
- 6.13.2 Under an unusual and limited circumstance, including without limitation an increase in one-time funds or an unexpected decrease in school district revenues during a given year, a school district may request that the Department waive the requirements of this Section 6.13.
 - 6.13.2.1 A school district seeking a waiver shall file a waiver request with the Commissioner of Education, accompanied by a resolution adopted by the school district's board of directors, describing the unusual and limited circumstances.
 - 6.13.2.2 The Commissioner of Education may grant a waiver request under this Section 6.13 for up to one (1) year if the Commissioner finds that the request is necessary based upon the unusual and limited circumstances.
- 6.13.3 The Department shall monitor on a yearly basis each school district's compliance with the requirements of this Section 6.13.
- 6.13.4 If a school district fails to comply with the requirements of this Section 6.13 during a school year, the Department may in the following school year withhold from that school district's national school lunch state categorical funding allocation an amount equal to the amount required to be spent by the school district in order to be in compliance with the requirements of this Section 6.13.
 - 6.13.4.1 The Department may redistribute amounts withheld under this Section 6.13.4 to other school districts entitled to receive national school lunch state categorical funding allocations.

7.00 Special Needs - Professional Development

- 7.01 The professional development funding amount shall be an amount up to the amount authorized by law multiplied by the district's ADM of the previous school year.

- 7.02 Professional development funding shall be expended for:
 - 7.02.1 Approved professional development activities and materials, as required by the Teacher Excellence and Support System, Ark. Code Ann. § 6-17-2801 *et seq.*, by other law or rule, or by the school district, that:
 - 7.02.1.1 Improve the knowledge, skills, and effectiveness of teachers;
 - 7.02.1.2 Address the knowledge and skills of administrators and paraprofessionals concerning effective instructional strategies, methods, and skills;
 - 7.02.1.3 Lead to improved student academic achievement; and
 - 7.02.1.4 Improve the knowledge, skills, and effectiveness of Response-to-Intervention and dyslexia intervention instruction;
 - 7.02.2 Employing instructional facilitators or Literacy, Mathematics, or Science Specialists/Coaches (K-12) as described in these Rules; and
 - 7.02.3 Training for school bus drivers in compliance with rules promulgated by the Commission for Arkansas Public School Academic Facilities and Transportation.
- 7.03 Districts may expend state professional development funding to provide the requisite hours of professional development required by law or rule.
- 7.04 Professional development funding is restricted state aid. Professional development funding shall be spent on activities identified in these Rules, except as otherwise allowed by law or rule.
- 7.05 Professional development funding may be carried over from one fiscal year to the next, but these funds shall remain restricted to priority areas as defined in these Rules except as otherwise allowed by law or rule.
- 7.06 Professional development activities and funding shall be included in the district's Arkansas Comprehensive School Improvement Plan (ACSIP).
 - 7.06.1 Use of professional development funds shall be included within the school or school district's ACSIP. The ACSIP will include how the funds will be spent.

- 7.06.2 The district shall annually evaluate professional development implementation supported by professional development funds to ensure that:
 - 7.06.2.1 Professional development as implemented by the school or district provides intervention prevention services designed to increase student achievement.
- 7.06.3 Evaluation data regarding the implementation and effect of professional development and professional growth plans should be utilized in the school improvement process to determine future professional development plans.
- 7.06.4 The total professional development funds shall be budgeted in the school or school district's financial management software.

8.00 Financial Accounting for Special Needs State Funding for ALE, ELL, National School Lunch Students, and Professional Development

- 8.01 After having provided programs designed to meet the needs of students in the respective categorical funding areas, a school district may transfer and expend funds on any of the special needs categories allowed for in these Rules.
- 8.02 Special needs state funding of ALE, ELL, national school lunch students, and professional development may be used for any of the expenditures identified in these Rules.
- 8.03 Districts shall report the funds received under each special needs state funding category.
- 8.04 Districts shall report the expenditures of all special needs state funds as required by law, including, but not limited to, fund balances remaining on June 30 of each year.
- 8.05 The funds received, transferred, expended, and carried over shall balance.
- 8.06 If the Department determines that a district would lose any federal funding due to these explicated expenditure requirements, the special needs state funds may be expended for other academic programs or salaries, as permitted by the Department.

9.00 Categorical Fund Balances

- 9.01 As of June 30 of each school year, the total aggregate balance of all state categorical fund sources shall not exceed twenty percent (20%) of the total

aggregate annual state categorical fund allocations for the current school year, except as provided herein.

9.01.1 On June 30, 2012, and on June 30 of each school year thereafter, if the total aggregate balance of all state categorical fund sources exceeds twenty percent (20%) of the school district's total aggregate annual state categorical fund allocations for the current school year, the school district shall reduce that total balance by ten percent (10%) each year until the school district's June 30 balance of aggregate annual categorical fund sources is twenty percent (20%) or less of the total aggregate annual state categorical fund allocations for the current school year.

9.01.2 The annual reduction required under Section 9.01.1 shall be a minimum of ten percent (10%) of the total excess balances of all state categorical fund sources as of June 30, 2012.

9.02 A school district may transfer funds received from any categorical fund source to another categorical fund source.

9.03 The Department shall monitor on a yearly basis each school district's compliance with the requirements of Ark. Code Ann. § 6-20-2305(e) and this Section 9.00.

9.03.1 If a school district fails to comply with the requirements of Ark. Code Ann. § 6-20-2305(e) or this Section 9.00 during a school year, the Department may in the following school year withhold from that school district's categorical funding allocation an amount equal to the amount required to be spent by the school district in order to be in compliance with the requirements of Ark. Code Ann. § 6-20-2305(e) and this Section 9.00.

9.03.2 The Department may redistribute amounts withheld under Ark. Code Ann. § 6-20-2305(e) and this Section 9.00 to other school districts entitled to receive categorical funding allocations.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Department of Education
DIVISION Legal Services
PERSON COMPLETING THIS STATEMENT Cory Biggs
TELEPHONE NO. (501) 682-4227 **FAX NO.** **EMAIL:** cory.biggs@arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE ADE Rules Governing Distribution of Student Special Needs Funding

- 1. Does this proposed, amended, or repealed rule have a financial impact? Yes No
- 2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes No
- 3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If an agency is proposing a more costly rule, please state the following:

- (a) How the additional benefits of the more costly rule justify its additional cost;

- (b) The reason for adoption of the more costly rule;

- (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;

- (d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

- (a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Total _____

(b) What is the additional cost of the state rule?

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 private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ _____

\$ _____

N/A

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ _____

\$ _____

N/A

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and

- (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.