



State of Arkansas
Bureau of
Legislative Research

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for Fiscal Services
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for Research Services

Memorandum

TO: Members, ALC – Executive Subcommittee

FROM: Rebecca Miller-Rice, Legislative Attorney, Administrative Rules Review Section, Legal Services Division

CC: Marty Garrity, Director, Bureau of Legislative Research;
Jessica Sutton, Administrator, Administrative Rules Review Section, Legal Services Division

DATE: June 12, 2017

SUBJECT: Analysis of Legal Authorization of Arkansas Department of Education Rules Governing Professional Learning Communities

Act 427 of 2017 serves to require that any increases in professional development funding each school year be used for professional learning communities. The Act amends Arkansas Code Annotated § 6-20-2305(b)(5), which provides, in relevant part, that “[f]unding for professional development for teachers in Arkansas public schools required under the Teacher Excellence and Support System, § 6-17-2801 et seq., other law or rule, or by the school district shall be used for professional development activities and materials that: (i) [i]mprove the knowledge, skills, and effectiveness of teachers; (ii) [a]ddress the knowledge and skills of administrators and paraprofessionals concerning effective instructional strategies, methods, and skills; (iii) [l]ead to improved student academic achievement; and (iv) [p]rovide training for school bus drivers as outlined in rules promulgated by the Commission for Arkansas Public School Academic Facilities and Transportation.” Ark. Code Ann. § 6-20-2305(b)(5)(B). Pursuant to the Act, which adds an additional subsection to the statute, additional funding for professional development that is above the amount set forth in subsection (b)(5)(A) of the statute, “shall be used by the Department of Education for the development and administration of professional learning communities for the

benefit of public school districts.” Act 427 of 2017, § 1. The Act further provides that the Department shall promulgate rules to administer the additional professional development funding. *See id.*



Arkansas Department of Education

Transforming Arkansas to lead the nation in student-focused education

Johnny Key
Commissioner

June 9, 2017

State Board
of Education

Ms. Donna Davis
Rules Administrator
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, Arkansas 72201

Mireya Reith
*Fayetteville
Chair*

Re: Proposed Rules (For Subcommittee Review)

Dr. Jay Barth
*Little Rock
Vice Chair*

Dear Ms. Davis:

Joe Black
Newport

Please find attached two (2) copies of the Arkansas Department of Education's Proposed Emergency Rules Governing Professional Learning Communities. The State Board of Education approved these rules on June 8, 2017. The Governor's Office has also approved them. An electronic copy has been provided to Ms. Garrity.

Susan Chambers
Bella Vista

Charisse Dean
Little Rock

Dr. Fitz Hill
Little Rock

Thank you for your attention to this matter. Please do not hesitate to contact me at (501) 683-0960 should you have any questions or require additional information.

Quida Newton
Poyen

Respectfully,

R. Brett Williamson
El Dorado

Diane Zook
Melbourne

Daryl A. Taylor
Staff Attorney

Enclosures

Four Capitol Mall
Little Rock, AR
72201-1019
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QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL

DEPARTMENT/AGENCY Arkansas Department of Education
DIVISION Central Administration
DIVISION DIRECTOR Tina Smith (ADE Special Advisor, Policy and Legislative Services)
CONTACT PERSON Daryl A. Taylor, Staff Attorney, Arkansas Department of Education
ADDRESS Four Capitol Mall, Room 404-A, Little Rock, AR 72201
PHONE NO. 501.683.0960 FAX NO. 501.682.4249 E-MAIL daryl.taylor@arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING Daryl A. Taylor
PRESENTER E-MAIL daryl.taylor@arkansas.gov

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201

1. What is the short title of this rule? ADE Rules Governing Professional Learning Communities (Emergency Rule)

2. What is the subject of the proposed rule? The proposed rules shall govern the development, expansion and administration of professional learning communities.

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No
If yes, please provide the federal rule, regulation, and/or statute citation. N/A

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes No

If yes, what is the effective date of the emergency rule? Anticipated: July 2017

When does the emergency rule expire? 120 days after filed with Secretary of State

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act?

Yes No

5. Is this a new rule? Yes No

If yes, please provide a brief summary explaining the regulation.

The proposed rule shall govern the development, expansion and administration of Professional Learning Communities (PLC) within select schools. The schools will serve as a working laboratory for the PLC at Work process, conducting action research and sharing best practices with other schools throughout the state. A Pilot Project will span a period up to five years, providing intensive training and support for a growing number of schools each year.

Does this repeal an existing rule? Yes No

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. N/A

Is this an amendment to an existing rule? Yes No

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up." N/A

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. Act 427 of 2017

7. What is the purpose of this proposed rule? Why is it necessary? The proposed rules shall govern the development, expansion, and administration of professional learning communities.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). <http://www.arkansased.org/divisions/legal/rules/pending>

9. Will a public hearing be held on this proposed rule? Yes No
If yes, please complete the following:

Date: N/A (emergency rule)

Time: _____

Place: _____

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

Not applicable (emergency rule).

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

July 2017

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. N/A

13. Please provide proof of filing the rule with the Secretary of State and the Arkansas State Library as required pursuant to Ark. Code Ann. § 25-15-204(e). N/A

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known. None known.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Department of Education

DIVISION Central Administration

PERSON COMPLETING THIS STATEMENT Daryl A. Taylor

TELEPHONE 501.683.0960 FAX 501.682.4249 EMAIL: daryl.taylor@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 Professional Learning Communities (Emergency Rule)

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;
N/A

(b) The reason for adoption of the more costly rule;
N/A

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

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

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

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

Current Fiscal Year

Next Fiscal Year

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

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

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

Current Fiscal Year

Next Fiscal Year

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

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

\$ _____

\$ 0 _____

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

\$ _____

\$ 0 _____

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: N/A

(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.

**SUMMARY OF RULES: ARKANSAS DEPARTMENT OF EDUCATION RULES
GOVERNING PROFESSIONAL LEARNING COMMUNITIES**

The proposed rules govern the development and administration of Professional Learning Communities within selected pilot program schools. The schools will serve as a working laboratory for the professional learning community process, with the goal that research and best practices then will be shared with other schools throughout the state.

ARKANSAS DEPARTMENT OF EDUCATION RULES
GOVERNING PROFESSIONAL LEARNING COMMUNITIES

(EMERGENCY RULE) – Effective August 1, 2017

1.00 AUTHORITY

- 1.01 These rules shall be known as the Arkansas Department of Education (ADE) Rules Governing Professional Learning Communities.
- 1.02 The State Board of Education enacted these rules pursuant to its authority as set forth in Act 427 of 2017.

2.00 FUNDING AND PURPOSE

- 2.01 Additional funding provided for professional development above the amount set forth in Ark. Code Ann. § 6-20-2305 (b)(5)(A) shall be used by the ADE for the development and administration of professional learning communities for the benefit of public school districts.
- 2.02 The ADE may partner with or choose a person, firm, corporation, or education service cooperative to provide the knowledge, skills, experience, and expertise for the development of a research-based process for the implementation of professional learning communities.

3.00 ELIGIBILITY AND SELECTION PROCESS

- 3.01 Any public school within Arkansas is eligible to apply for this funding.
- 3.02 Schools will be selected through an application process established by the ADE. Criteria for selecting schools for this project will include readiness, appropriateness, commitment, and other relevant factors.
- 3.03 Schools selected for the Project will receive intensive onsite professional development services to support the full implementation of Professional Learning Communities.
- 3.04 Continued participation in the project is contingent upon meeting the expectations established in the application process.

Emergency Clause

Whereas, Act 427 of 2017 provides that professional development funding above that amount set forth in Ark. Code Ann. § 6-20-2305(b)(5)(A) shall be used by the Department of Education for the development and administration of professional learning communities for the benefit of public school districts; and

Whereas, the General Assembly provided funding in an amount in excess of that set forth in Ark. Code Ann. § 6-20-2305(b)(5)(A) in Act 1044 of 2017, which funds will become available on July 1, 2017, for the development and administration of professional learning communities; and

Whereas, the General Assembly mandated that the Arkansas Department of Education promulgate rules for the development and administration of these professional learning communities.

THEREFORE, the State Board of Education hereby determines pursuant to Ark. Code Ann. § 25-15-204 that immediate peril to the welfare of Arkansas public schools and students will result without the immediate promulgation of these rules.