

DEPARTMENT OF EDUCATION

SUBJECT: Public Charter Schools

DESCRIPTION: The department is proposing to repeal the Public Charter Schools rules dated October 12, 2009 and the Limited Public Charter Schools rules dated October 12, 2009. The proposed rule will combine the existing Rules Governing Public Charter Schools and Rules Governing Limited Public Charter Schools. The rule establishes the requirements and procedures for the application of a public charter school, for monitoring a school once it has been granted a charter, for renewal, modification, and revocation of a charter, and for disbursing funds to a public charter school.

It is necessary to incorporate updates needed to bring the rules in accordance with Acts 987, 989, and 993 of 2011.

PUBLIC COMMENT: The public hearing was held on June 20, 2011. The first public comment period ended on July 14, 2011. The second comment period ended on November 17, 2011. The following comments were submitted to the Department:

Arkansas Public School Resource Center

Comments from first promulgation that were not repeated in second promulgation:

- Section 3.08, definition of "Debt" -- The Rules should further define "line-of-credit." Does the term line-of-credit include a consumer line-of-credit or improvement loan, or simply increasing the line-of-credit on a credit card account? The ADE should not exercise any greater authority over short-term obligations for charter schools than is statutorily provided for any public school. **RESPONSE:** Comment accepted. The rule was revised to include a definition of "line of credit".
- Section 3.13, definition of "License" -- The proposed definition provides that an open-enrollment public charter school will be limited to only one (1) charter license for each open-enrollment charter held by the charter-holder. Such an interpretation is contrary to both the plain language and intent of Ark. Code Ann. § 6-23-304(d); nothing in the changes made to § 6-23-304 by Act 993 of 2011 affects the interpretation. The language in Section 6.05.1 of these proposed Rules correctly articulates the statutory standard for obtaining charter licenses. **RESPONSE:** Comment accepted. While we do not concur with the interpretation listed in the comment, particularly in light of the wording of Section 6.05.1 of the proposed rules, we added an "(s)" to the words "license" and "school" to avoid confusion.
- Section 6.05.1.2.3 -- The reference to "Section 4.02" of these rules should be changed to "Section 4.03." **RESPONSE:** Comment accepted. The proposed change was made to the rule.

- Section 6.07.1.14.3.2 -- The word "federal" should be inserted between the terms "Title IX of the" and "Education Amendments of 1972." **RESPONSE:** Comment accepted. The proposed change was made to the rule.
- Sections 6.11.1.5.1 and 6.11.1.5.2 -- We are concerned that the proposed time periods go beyond the scope of what is permitted by Ark. Code Ann. § 6-23-401(a)(5). What if the school is facing an emergency funding issue concerning the general health, safety, education or welfare of students, faculty or the public? Charter schools should reside under the same legal and statutory constructs governing traditional public school districts unless otherwise waived by the school and Board. **RESPONSE:** Comment accepted. Ark. Code Ann. § 6-23-401(a)(5) does not contain any guidance on the timelines for such requests. However, the statute clearly provides for a period of review of debt requests by the Commissioner of Education. We recognize that some emergencies may arise that would necessitate a waiver of the timelines in this section. Accordingly, section 6.11.1.5.2 of the rules has been revised.
- Section 6.12.3 -- Specifically, the Department should establish the July 30 deadline contained in Section 9 of Act 993 of 2011, which was enacted later in time than the deadline contained in Act 989 of 2011. **RESPONSE:** Comment considered. Acts 989 and 993 of 2011 were enacted on the same date, April 1, 2011. The rule, as written, will comply with the date adopted for Ark. Code Ann. § 6-23-402 by the Arkansas Code Revision Commission.
- Section 6.17.2.1 -- A similar comment to Comment (6). Specifically, the Department should establish the July 1 deadline contained in Section 12 of Act 993 of 2011. **RESPONSE:** Comment considered. Acts 989 and 993 of 2011 were enacted on the same date, April 1, 2011. The rule, as written, will comply with the date adopted for Ark. Code Ann. § 6-23-501 by the Arkansas Code Revision Commission.
- Section 6.17.5.1 -- A similar comment to Comments (6) and (7). Specifically, the Department should establish the July 1 deadline contained in Section 14 of Act 993 of 2011. **RESPONSE:** Comment considered. Acts 989 and 993 of 2011 were enacted on the same date, April 1, 2011. The rule, as written, will comply with the date adopted for Ark. Code Ann. § 6-23-501 by the Arkansas Code Revision Commission.
- Section 6.17.11.2 -- Change the word "imminent" to "eminent." **RESPONSE:** Comment accepted. The proposed change was made to the rule.
- Section 7.12 -- Change the word "Conversion" to "Limited." **RESPONSE:** Comment accepted. The proposed change was made to the rule.

Comments from second promulgation (including comments repeated from first promulgation):

- The Arkansas Department of Education (ADE or Department) should present all first time rules or revisions to existing rules in a “marked up” format (i.e. underline new or additional language to rules and strike-out that current language in rules or revisions to existing rules the agency is seeking to promulgate.) This has been the prior practice of ADE for many years. Furthermore, the Arkansas Administrative Rules and Regulations Subcommittee of the Legislative council by policy requires a marked-up version indicating any changes occurring after the original filing of the rules to be submitted by at least the fifteenth day (15th) of the month preceding the subcommittee meeting in which the rules will be considered. As a result, it seems only proper that the agency begin presentation of all rules by submitting a marked-up version for public review and comment. **RESPONSE:** Comment considered. The ADE is aware of the requirement for marking up revised rules. However, this is not a revised rule in the traditional sense. It is a new rule. At the same time the ADE promulgates this new rule, it will repeal existing rules governing public charter schools and limited public charter schools. The repeal of those two rules has also been made available for public review and comment. The ADE considered amending, rather than repealing, the existing rule governing public charter schools. However, because the existing rule required wholesale changes, it was more advisable to simply repeal that rule and replace it with the proposed rule.
- The proposed Rules fail to mention the creation/existence of the Charter Review Council (Council). We believe, as the Council is now an integral part of the charter review process, that the processes and procedures involving the Council should be clearly articulated in the Rules. **RESPONSE:** Comment considered. The Charter Review Council is an information-gathering advisory body. Its purpose is to gather information to better inform the decision-making of the State Board of Education. The Charter Review Council has not created any formal processes and procedures to govern its work. Instead, the Charter Review Council is part of the Arkansas Department of Education’s efforts to gather information as already envisioned by Section 4.08.10.
- There continues to be an issue with the local school district in which an open-enrollment public charter school applicant is proposing to locate submitting materials to the State Board of Education at the last minute before the applicant’s hearing. This practice causes the charter applicant to be at a great disadvantage, with little or no ability to respond to this new information which is submitted well past Department-established timelines. In order to address this practice, we strongly recommend that timelines for the submission of such information from the opposing school district(s) be incorporated into these Rules, and strict adherence to them be enforced by the Department and the State Board of Education. **RESPONSE:** Comment considered. To the extent not otherwise included in the rules, the State Board of Education adopts its general board submission timelines on an annual basis. The Arkansas Department of Education

will work with applicants, local school districts, and other interested parties to clearly communicate the established deadlines.

- Section 3.04, definition of “Application”: We are concerned that this definition goes beyond the scope of Ark. Code Ann. §§ 6-23-103(1) and 6-23-104(b). Specifically, the proposed definition seems to create an open-ended process around a document. The term “Application” should be limited to the actual document attached to the ADE’s Rules and not defined to include any and all possible issues dealing with charter school consideration. When the term “Application” is used to describe or denote a process, it should be limited to the following three (3) processes: (1) Start-up; (2) Amendment; or (3) License. More particularly, we are concerned about how the additional terms will be construed. **RESPONSE:** Comment considered. Section 3.04 clearly delineates the types of applications allowed by statute. The definition includes the types of applications, in addition to the initial application, to which the term “application” refers: (1) applications involving a change to the physical location of the school; (2) applications for an amendment to the school’s charter; (3) applications for approval of licenses. Moreover, the rule itself sets forth separate procedures for each type of application.
- Section 3.08, definition of “Debt”: The ADE should not exercise any greater authority over short-term obligations for charter schools than is statutorily provided for any public school. The proposed “line of credit” definition contained within this Section can be more restrictive in practice than the general “Debt” definition. For example, if a charter school accesses its line of credit on June 1 of a year, under the proposed definition, it would only have until June 30 of that same year to repay the amount of money accessed. At minimum, the line-of-credit language should be no more restrictive than the remainder of the “Debt” definition contained in this section (which is more restrictive than the “Debt” language in the current Rules). **RESPONSE:** Comment considered. Based upon your previous request for a definition of “line of credit,” the rule was modified to include such a definition. Section 3.08 now contains a modified definition of “debt” and now includes a definition of “line of credit.” The comment apparently overlooks the express statutory language of Ark. Code Ann. § 6-34-401(a)(5), which states that an open-enrollment public charter school “[s]hall not incur any debts without the prior review and approval of the Commissioner of Education.” In that regard, as a matter of statutory law, open-enrollment public charter schools are treated differently than traditional public schools.
- Section 4.02.3:
 - (a) There is no statutory authority to require the charter-holder to file an “application” seeking the State Board of Education’s approval of its’ change of physical location unless the charter-holder’s new location will be outside of the boundaries of the resident school district listed in its charter. All that should be required of charter-holders making an “intra-district” move is a facility lease review and assurances that the new facility meets all applicable ADA, IDEA, and health and safety requirements. **RESPONSE:** Comment considered. The

comment appears to overlook the express statutory language contained in Ark. Code Ann. 6-23-104(b), which states that “[a]ny revision or amendment of the charter for a public charter school may be made only with the approval of the state board.” To the extent that a change in physical location of the charter school constitutes a revision or amendment to the school’s charter, the State Board clearly has the statutory obligation to address such an issue. Additionally, such a change in physical location may trigger an additional desegregation analysis as may be required by Ark. Code Ann. § 6-23-106.

(b) The charter school should be required to send notice to the Department; the Department may send notice to any appropriate party.

RESPONSE: In order for the timelines contained in the rules to serve their purposes and in order to preserve transparency, it is necessary for the notice to be sent by the public charter school to appropriate local school districts.

- Sections 4.02.3 and 4.02.4:

(a) Forty-five (45) days is too long of a time period to require notice to the State Board of Education (Board); public charter schools should not be required to submit information to the Board beyond the time periods required for other public schools. The extensive regulatory process created for charter schools already creates a system of perpetual presence of charter school issues before the Board. The major complaint has been the exhaustive issue of charter schools before the Board. It is recommended that a less prescriptive requirement for any and all charter school issues before the Board would help alleviate the massive hearing load of charter school issues by the Board. **RESPONSE:** Comment considered and accepted in part. Public charter schools operate under the terms of a charter contract entered into with the State Board and in that regard, are different from other public schools. Any modification of that charter contract requires State Board approval. The Department of Education, acting for the State Board, must have adequate time to sufficiently review proposed modifications to a charter contract. In some instances, that review must allow time for local school districts to provide input. The timelines, as set forth in the rules, provide adequate opportunity to address these concerns. Based in part upon your previous public comments, Section 4.02.6 allows the Commissioner of Education or his designee to waive the 45-day deadline in appropriate circumstances.

(b) Define “amendments” to charter. Otherwise, petty issues will be going to the Board. The term amendments should at least be changed to “substantive amendments.” For example, if the school will be operated in the same location, but wants to become affiliated with a charter network with no change in its leadership, board, etc., does it have to get Board permission to do that? Is that substantive or not? **RESPONSE:** Based upon recommendations from the National Association of Charter School Authorizers (NACSA), the Arkansas Department of Education is in the process of modifying the charter document. It is anticipated that those modifications will include an explanation of substantive and non-substantive provisions.

- Section 4.02.5: Other than the timeline, this is a good change and an improvement over the previous process. **RESPONSE:** Comment considered.
- Section 4.03.1.5: This proposed change creates a major potential problem. This section attempts to engraft a Federal requirement for state education agencies to receive charter school funding under the Consolidated Appropriations Act, 2010 from the United States Department of Education onto charter applications through these proposed Rules. The Federal funding Act requirement could seemingly be met by referencing the provisions of Ark. Code Ann. § 6-23-105(a)(1) and (4) and 6-23-306(3) and (4). Furthermore, the State does not appear to hold traditional public school district students to equitable academic accountability standards the same as a public charter school student with the Board's request for waiver of ESEA accountability standards (see letter to Secretary of Education Arne Duncan from Board President Dr. Naccaman Williams, dated March 14, 2011) and the State's incredibly low standards for State intervention for academic distress for school districts. **RESPONSE:** Comment considered. As is clearly set forth in the text of Section 4.03.1.5, this section was added in accordance with federal statute. The federal government would not provide federal charter school funding to the State of Arkansas if this section was excluded from the rule. To preserve federal charter school funding, this section of the rule must be in place by January 31, 2012.
- Sections 4.04.4 and 4.04.5: We have great concern with requiring a charter school to prepare and provide to the Department a desegregation analysis when seeking to amend its charter, or applying for a license. The proposed language exceeds the scope of Ark. Code Ann. § 6-23-106. Furthermore, to require a race based analysis beyond an initial application may be used as proof of segregation of intent on the part of the State in limiting the race of students who may attend a public charter school. Finally, these proposed sections do not require a desegregation analysis from the local school district as is required by Ark. Code Ann. § 6-23-106 creating further possible equal protection considerations. **RESPONSE:** Comment considered. Ark. Code Ann. § 6-23-106 states, in part, that the "state board shall not approve any public charter school under this chapter or any other act or combination of acts that hampers, delays, or in any manner negatively affects the desegregation efforts of a public school district or public school districts in this state." (emphasis added). Therefore, it is permissible to review referenced actions in light of any applicable desegregation orders. Finally, Section 4.04.5 of the rule clearly provides the opportunity for local school districts to provide desegregation analyses. If local school boards fail to submit such desegregation analyses within the required timeframe, they will waive their opportunity to do so.
- Section 4.06.6: This Section seems vague, and does not really provide guidance to the charter school as to what it should be reasonably expected to provide to the Department, and under what timeline(s) and goes beyond the scope and provisions of Act 993 of 2011. **RESPONSE:** Comment considered. This section applies to all public records possessed by a charter school. This section is necessary for

monitoring and oversight of charter schools by the Department of Education. Traditional public school districts are held to the same standard. The commenter has not identified what public information it believes public charter schools should withhold from the Department of Education. As this section pertains only to public information, it should not present a problem for charter schools.

- Section 4.07.1: Why is this requirement being added? Is this change due to a new requirement being imposed upon the Department at the Federal level? If this requirement remains, what are the consequences if the charter school fails to comply? The ADE should define “best or promising” practices. **RESPONSE:** Comment considered. This requirement is added for those public charter schools that receive dissemination grants. To the extent those public charter schools may not be aware of the requirement to publish best or promising practices in accordance with their approved grant applications, this section provides clarity.
- Section 6.01.3: We are concerned that the language in this proposed section may be “ultra vires.” The language of Ark. Code Ann. § 6-23-304(a) and (a)(1) states that the Board may approve or deny an application based on criteria provided by law or rule adopted by the Board; the statute mentions nothing about the Board adopting criteria for a specific “program.” The Board’s authority in this general area, on a case-by-case basis, seems to reside in Ark. Code Ann. § 6-23-304(a)(2). Any accountability program should be adopted by Rules and Regulations under the Administrative Procedure Act to provide due process opportunities of public notice. To not do so may be to act outside the authority of the Administrative Procedure Act and expectations of accountability standards. **RESPONSE:** Comment considered. The referenced language was taken verbatim from Ark. Code Ann. 6-23-301(a)(2) and falls squarely within the authority of the State Board.
- Sections 6.01.7.1 and 6.01.8.1: The clear intent of Act 993 of 2011, in amending the provisions of Ark. Code Ann. §6-23-302(d), was to keep a local school board from delaying the open-enrollment charter school application process by either failing to vote on the application, or by voting on the application at a time beyond the deadline established by the Department. This Section should be amended to establish a deadline for the local school board to review (if it so chooses) and either approve or disapprove the application, or state it is taking no action on the application and notify the Department of its decision. If the Department receives nothing from the local school board by the deadline, the application is forwarded to the Board for its consideration. **RESPONSE:** Comment considered. The language in these sections was taken verbatim from Act 993. Based upon your similar comment during the first comment period, ADE staff combined former Sections 6.01.7 and 6.01.8 in order to avoid any confusion.
- Sections 6.21.1 and 6.21.2: We are concerned that these proposed sections may result in an improper taking as they are not grounded in statutory authority as to any private funds that may be intended to assist a charter school but not expressly placed in the bank account or under the authority of the governance of that charter

school. See restrictions to state and federal funds per Ark. Code Ann. § 6-23-506 and Section 8.00 of this Rule. **RESPONSE:** Comment considered. These sections would not result in an improper taking. These sections merely require two separate bank accounts so that charter school funds may be accurately tracked and accounted for. At any given point in time, it must be clear which assets belong to an open-enrollment public charter school and which assets do not.

- Section 8.00: We have general concerns about the broad, sweeping authority given to the Department in this proposed section of the Rules. While we are cognizant of the recent open-enrollment charter school closures, and the burden that such closures place upon the Department's staff, we would urge the Department to reexamine this section. **RESPONSE:** Comment considered. One primary recommendation of the National Association of Charter School Authorizers (NACSA) was that the State Board develop a comprehensive process for the closing and dissolution of public charter schools. These procedures were based, in part, upon NACSA guidelines.
- Section 8.02.2.3: We are concerned the closing charter school will not be given significant time to "prove" to the Department that an item or items has been purchased with sponsoring entity or private funds, and will be faced with trying to regain possession of its item or items from either the Department or a subsequent donee. **RESPONSE:** Comment considered. The Department of Education has a legal duty to protect and account for state and federal funds/property. The situation raised in the comment will become an issue only if the public charter school fails to properly document and account for public funds/property.
- Section 8.03: Again, there is a concern with the preservation/protection of the charter school's property purchased with sponsoring entity or private funds, or even donated to the school. Additionally, there appear to be no provisions made for segregating the non-state/federal funds in the state of items that were acquired with a combination of governmental and non-governmental funds, and returning the non-governmental proceeds to the sponsoring entity. **RESPONSE:** Comment considered. The rule has been revised to add a definition of "net proceeds" that explicitly requires the satisfaction of any interest in the property held by the sponsoring entity or any other entity.
- Section 8.03.4: It might be appropriate to indicate that approval of the Department of Finance and Administration's Office of State Procurement might be necessary for the disposition of items acquired with state funds. **RESPONSE:** Comment considered. The Department of Education will work with the Office of State Procurement to develop guidelines to dispose of items acquired with state funds in accordance with state law.
- Section 8.04: Please provide the specific federal or state law granting the ADE/Board authority to establish the prioritization process in 8.04. **RESPONSE:** Comment considered. The proposed prioritization is designed and intended to

protect legally-cognizable interests which may supersede other claims on those funds. As noted above, the Department of Education has the legal responsibility to protect state and federal funds (8.02.2.4 and 8.02.2.5). The tax lien requirements, 8.04.2.2 and 8.04.2.3, are based upon I.R.C. § 6321 and Ark. Code Ann. § 26-18-701. The domestic support requirement, 8.04.2.1, is based upon Ark. Code Ann. §§ 9-14-102 and 9-14-219. The federal repayment requirements, 8.04.2.4 and 8.04.2.5, are based upon grant and other requirements which hold the State of Arkansas liable for federal fund repayments that are owed by local schools but unpaid. The remaining requirements have their basis in the law of implied trusts, but are also intended to avoid any violation of ERISA – because those funds were withheld to pay specific obligations for the benefit of employees, there is an implied trust obligation to remit those funds for their intended purpose.

- Section 8.05: Upon what legal authority(-ies) are these records distribution/retention schedules based? Absent specific legal authority a public charter school is under no greater legal standard of record retention than any other public school. **RESPONSE:** Comment considered. Standard for Accreditation 7.03.2.1 requires all public schools to maintain all reports and records necessary for effective planning, operation, and education. In addition, all public schools have an obligation under FERPA to maintain records and make those records available to parents and students upon request.

The proposed effective date is tentatively set for thirty (30) days after review.

CONTROVERSY: These rules are not expected to be controversial.

FINANCIAL IMPACT: There is no financial impact.

LEGAL AUTHORIZATION: Arkansas Code Annotated §6-11-105 gives the Department the general authority to make rules and regulations regarding the schools of the State of Arkansas.

This rule has been promulgated in order to implement the changes made in the law by Acts 987, 989, and 993 of 2011.

MM 1-17-12

~~ARKANSAS DEPARTMENT OF EDUCATION
RULES GOVERNING PUBLIC CHARTER SCHOOLS
October 12, 2009~~

Agency # 005-15

RECEIVED

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~~1.00—Regulatory Authority~~

~~1.01—These rules shall be known as the Arkansas Department of Education Rules Governing Public Charter Schools.~~

~~1.02—The State Board of Education enacted these rules pursuant to its authority under Arkansas Code Annotated §6-11-105, 6-23-101 et seq., 25-15-201 et seq., and Act 1469 of 2009.~~

~~2.00—Purpose of Regulations~~

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

~~3.00—Definitions~~

~~For the purpose of these rules:~~

~~3.01—“Debt” is defined as a financial obligation incurred by a public charter school, which is due in more than 365 days.~~

~~3.02—“Average daily membership (ADM)” is defined as the total number of days attended plus the total number of days absent by students 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 during that period of time rounded up to the nearest hundredth.~~

~~3.03—“Local School Board” means a board of directors exercising the control and management of a public school district. In addition for the purposes of these rules a local school board refers to the board of directors of the school district where the public charter school will be physically located.~~

~~3.04—“Public school district in which enrollment is likely to be affected” is defined as the school districts in the geographical area surrounding the proposed open-enrollment public charter school from which students are likely to be drawn across district lines for enrollment in the public charter school.~~

- 3.05 ~~“Application” is defined as the proposal for obtaining conversion public charter school status, open enrollment public charter school status, or limited public charter school status presented to the State Board of Education requesting to enter into a charter that describes the school and provides all of the information required by law and the Arkansas Department of Education, in the form prescribed by the Charter School Office. The term application shall be synonymous with the term petition, and the terms are interchangeable throughout these rules. The application, in addition to any conditions or requirements agreed upon by the State Board, will serve as the terms and conditions of the charter.~~
- 3.06 ~~“Letter of Intent” is defined as a written notice submitted to the Department of Education Charter School Office that a public school district or an eligible entity intends to file a charter school application. Such letter of intent shall be submitted on forms provided by the Department of Education by the established deadline.~~
- 3.07 ~~“Eligible entity” is defined as a public or private, nonsectarian institution of higher education; governmental entity, or organization, which has applied for tax exempt status under §501(c)(3) of the Internal Revenue Code at the time of application for the open enrollment charter. The eligible entity must have status as a tax exempt organization under § 501(c) (3) of the Internal Revenue Code of 1986 prior to the first day of its operation with students.~~
- 3.08 ~~“Charter” is defined as a performance based contract between the State Board of Education and an approved applicant for public charter school status which exempts the public charter school from specified state and local rules, regulations, policies, and procedures for an initial five year (5) period and which operates under the specific terms of a charter granted by the State Board of Education.~~
- 3.09 ~~“Public charter school” is defined as a conversion public charter school, an open enrollment public charter school, or a limited public charter school.~~
- 3.10 ~~“Open enrollment public charter school” is defined as a public school that is operating under the terms of a charter granted by the s State Board of Education on the application of an eligible entity, may draw its students from any public school district in this state, and is recognized as a local educational agency under the Elementary and Secondary Education Act of 1965, 20 U.S.C. §7801, as it existed on April 10, 2009.~~
- 3.11 ~~“Conversion public charter school” is defined as an existing public school which has is converted to a school under the terms of a charter approved by the local school board and the State Board of Education.~~
- 3.12 ~~“Limited public charter school” is defined as a public school that has converted to operating under the terms of a limited public charter approved by the local school board and the State Board of Education.~~

- ~~3.13 — “Founding member” is defined as any individual who is either a member or an employee of the eligible entity applying for the initial charter for an open-enrollment public charter school or a member of the initial governing non-advisory board of the open-enrollment public charter school.~~
- ~~3.14 — “Parent” is defined as any parent, legal guardian, or other person having custody or charge of a school-age child.~~
- ~~3.15 — “Public school” is defined as a school that is part of a public school district under the control and management of a local school board.~~
- ~~3.16 — “License” is that authority granted by the State Board of Education to an already existing open-enrollment public charter sponsoring entity for the purpose of establishing another open-enrollment public charter school with a limit of only one charter license to be approved for each additional open-enrollment public charter school to be established under an already existing open-enrollment charter provided the applicant for a charter license meets the following minimum conditions: (1) open-enrollment public school charter from the State Board of Education, and (2) meets the requirements of Section 10.05.1 of these Rules.~~

~~4.00 — Observance of Anti-Discrimination Laws~~

- ~~4.01 — All public charter schools shall observe and comply with all anti-discrimination law, both federal and state, except where otherwise exempted under federal charter school law as provided in § 10.02.02.~~
- ~~4.02 — For the purposes of the Individuals with Disabilities Education Act (IDEA) and these rules, all public charter schools are responsible for ensuring that the requirements of IDEA are met.~~
- ~~4.03 — For the purposes of Section 504 of the Rehabilitation Act and these rules, all public charter schools are responsible for ensuring that the requirements of Section 504 are met.~~

~~5.00 — Application Process, Schedule, Forms and Technical Assistance~~

- ~~5.01 — A procedure for establishing a public charter school shall be published by the Department of Education at least thirty (30) days prior to the hearing of a charter school application or license request or issue, as approved by the State Board of Education. If all dates and requirements in the procedures for establishing a public charter school are not strictly followed, the State Board may refuse to consider the application for a charter.~~
- ~~5.02 — Application forms and other documents needed for the public charter school application process shall be provided by the Department of Education Charter~~

~~School Office and are attached as "Appendix A" to these Rules and incorporated into these Rules as if fully set forth herein.~~

~~5.03 Any requests for technical assistance by a charter applicant shall be made to the Department of Education Charter School Office.~~

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

~~6.00 Conversion Public Charter School Application Approval Procedures~~

~~6.01 Each conversion public charter applicant must submit, by certified mail on or before the established deadline, to the Department of Education Charter School Office a letter of intent signed by the school board president.~~

~~6.02 Each charter applicant shall prepare an application that describes the elements of the applicant's plan for establishing a conversion public charter school. The application shall be on a form provided by the Department of Education. If requested, the Department of Education Charter School Office shall give technical assistance in preparing the application.~~

~~6.03 A public school application for a conversion public charter school may include, but shall not be limited to, the following purposes:~~

~~6.03.01 Adopting research based school or instructional designs, or both, that focus on improving student and school performance;~~

~~6.03.02 Addressing school improvement status resulting from sanctions listed in Arkansas Code Annotated § 6-15-207(e)(8) and 6-15-429(a) and (b); or~~

~~6.04.03 Partnering with other districts or schools to address students' needs in a geographical location or multiple locations.~~

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

~~7.01 The State Board shall not approve a conversion public charter school application from a district that has not been approved by the district's local board.~~

~~7.02 The Department of Education shall review the applications and present to the State Board a written evaluation of the application. A copy of the evaluation shall be sent to the applicant. The applicant will be allowed to submit a written response to the evaluation by an established deadline. The applicant will not be allowed to supplement the original application with additional documents or new information prior to the State Board review.~~

~~7.03—The State Board shall review the applications for proposed public charter schools. The State Board shall vote whether or not to award charters. The State Board may place conditions on the charters it awards.~~

~~7.04—The State Board of Education may defer the vote to approve or disapprove a charter application in order to allow a charter applicant to make modifications or receive technical assistance to correct deficiencies in the application.~~

~~7.05—The decision of the State Board of Education shall be final.~~

~~8.00—Open Enrollment Public Charter School—Application Approval Procedures~~

~~8.01—Each open enrollment public charter applicant must submit to the Department of Education Charter School Office a letter of intent sent by certified mail and received by the Department on or before the established deadline. A copy of the letter of intent shall also be sent by certified mail to the superintendent of each public school district from which the open enrollment public charter school is likely to draw students for the purpose of enrollment and the superintendent of any public school district that is contiguous to the public school district in which the open enrollment public charter school will be located.~~

~~8.02—Within seven (7) calendar days following the first publication of the notice of the public hearing, letters announcing the public hearing shall be sent to the superintendent of each public school district from which the open enrollment public charter school is likely to draw students for the purpose of enrollment and the superintendent of any public school district that is contiguous to the public school district in which the open enrollment public charter school will be located.~~

~~8.03—Each charter applicant shall prepare an application that describes the elements of the applicant's plan for establishing a public charter school. The application shall be on a form provided by the Department of Education. If requested, the Department of Education Charter School Office shall give technical assistance in preparing the application.~~

~~8.04—The application shall be received by the Department on or before the established deadline. Each open enrollment public charter applicant shall send a copy of the application to all public school districts in which enrollment is likely to be affected by the public charter school by the established deadline. The application shall be sent by certified mail to the Superintendent(s) as required in § 8.01 by the established deadline. Documentation shall be provided to the Department of Education, in the form of copies of certified mail receipts that the applications were sent.~~

- ~~8.05~~ — The board of the public school districts in which enrollment is likely to be affected by the proposed public charter school may review the open enrollment public charter school application and submit any written findings or statements of the board, signed by the board president, to the Department of Education Charter School Office by an established deadline. The school board shall send a copy of the written findings or statements to the applicant by certified mail. Failure to submit this information will constitute the conclusion that the proposed public charter school will have no impact on the district.
- ~~8.06~~ — The local board of the district where the proposed public charter school is to be located shall review the open enrollment public charter school application. The local board shall vote to approve or disapprove the application and prepare written findings. The results of the vote and the written findings shall be sent by certified mail to the Department of Education Charter School Office and to the public charter school applicant by an established deadline. An affected school district may submit written comments concerning the application to the State Board to be considered at the time of the State Board's review of the application by a deadline to be established by the State Board.
- ~~8.07~~ — The applicant for an open enrollment public charter school whose application is disapproved by the local board shall have the immediate right to proceed with a written notice of appeal to the State Board of Education. To exercise the right to appeal, the applicant must send written notice of appeal to the State Board within ten (10) calendar days after receiving notice of the local board's disapproval of the application for an open enrollment public charter school. The notice of appeal shall be sent by certified mail to the State Board of Education and to the local board of the district where the proposed public charter school is to be located.

~~9.00~~ — **Responsibilities of the State Board of Education — Open Enrollment Public Charter Schools**

- ~~9.01~~ — The Department of Education shall review the applications and present to the State Board a written evaluation of the application. It is recommended that the evaluation form attached to these Rules as "Appendix C" and incorporated into these Rules as if fully set forth herein to be used by the Department in evaluating applications. A copy of the evaluation shall be sent to the applicant. The applicant will be allowed to submit a written response to the evaluation by an established deadline. The applicant will not be allowed to supplement the original application with additional documents or new information prior to the State Board review. The State Board of Education may request the Department of Education to contract with outside agencies to provide services concerning the review and evaluation of charter applications.
- ~~9.02~~ — In the event an application is denied by the local board, the State Board shall hold a hearing within forty five (45) calendar days after receipt of the notice of appeal

~~at a location where all interested parties may appear and present relevant information regarding the proposed open enrollment public charter school.~~

~~9.02.01 The charter applicant shall have a period of time to be set at the discretion of the State Board as required by Section 5.01 of these Rules to present its arguments to the State Board for approval of the proposed public charter school. The local school board and boards of districts likely to be affected by the proposed public charter school shall have a combined period of time, to be set at the discretion of the State Board, to present the arguments for disapproval of the proposed public charter school to the State Board. The charter applicant shall then have a period of time, to be set at the discretion of the State Board, to respond to the arguments of the local school board and boards of districts likely to be affected by the proposed charter school. The State Board shall follow the presentations with discussion of the charter application and possible questions to the public school board representative(s) and/or the charter applicant.~~

~~9.03 The State Board shall review the applications for proposed public charter schools and utilize the same procedures set forth in Section 9.02.01 of these Rules. The Board shall vote whether or not to award charters to locally approved applications. The State Board may place conditions on the charters it awards.~~

~~9.04 The State Board of Education may defer the vote to approve or disapprove a charter application in order to allow a charter applicant to make modifications or to receive technical assistance to correct deficiencies in the application.~~

~~9.05 The decision of the State Board shall be final.~~

~~10.00 Content of Application and Charter~~

~~10.01 The public charter school application shall include, but is not limited to the following:~~

~~10.01.01 educational mission;~~

~~10.01.02 educational need;~~

~~10.01.03 description of public hearing results;~~

~~10.01.04 description of educational plan, which clearly addresses how the public charter school will improve student learning and academic achievement and meet or exceed state goals;~~

~~10.01.05 description of governance and organizational structure;~~

- ~~10.01.06 — description of facilities to be used, location of the proposed school, and the present use of the facility and the use for the past three (3) years; and a statement of the current permissible uses from the local zoning authority~~
 - ~~10.01.07 — copies of annual budget and financial plan (including all sources of funding);~~
 - ~~10.01.08 — establishes the entity has applied for tax exempt status under § 501(c)(3) of the Internal Revenue Code of 1986;~~
 - ~~10.01.09 — agreement to provide annual report of progress toward meeting performance goals to parents, community, local board and State Board;~~
 - ~~10.01.10 — description of admission procedure;~~
 - ~~10.01.11 — description of support services;~~
 - ~~10.01.12 — identification of regulations, if any, to be waived, with rationale for waiver request;~~
 - ~~10.01.13 — school calendar and school day schedule; and~~
 - ~~10.01.14 — description of age or grade range of pupils to be enrolled.~~
- ~~10.02 — In addition to the requirements identified in Section 10.01 of these Rules, an application for an open enrollment public charter school shall include, but is not limited to, the following:~~
- ~~10.02.01 — specification of period for which the charter or any charter renewal is valid, contingent upon acceptable student performance levels established within the state accountability system;~~
 - ~~10.02.02 — prohibition of discrimination in admission on the basis of gender, national origin, race, ethnicity, religion, disability, academic or athletic eligibility, except as follows: the open enrollment public charter school may adopt admissions policies that are consistent with federal law, regulations, or guidelines applicable to charter schools, except as allowed in § 4.00; although the charter may provide for the exclusion of a student who has been expelled from another public school district;~~
 - ~~10.02.03 — specification of the qualifications to be met by professional employees of the program;~~
 - ~~10.02.04 — description of budget process;~~

- ~~10.02.05~~—description of annual audit of financial and programmatic operations, including how the charter school will provide information needed by the public school district in which the charter school is located;
- ~~10.02.06~~—description of facility to be used and its location including the terms of the facility utilization agreement if the facility for the public charter school is owned or leased from a sectarian organization. All facilities lease agreements by applicants shall provide as much information as possible but should supply the general information required. The lease agreement form as attached to these Rules as Appendix B is provided as a standard form lease that may be used by the applicant,;
- ~~10.02.07~~—description of geographical area, school district or school attendance area to be served by the program;
- ~~10.02.08~~—description of admission and enrollment criteria and student recruitment and selection processes, including provision for a random, anonymous student selection method if more eligible students apply for a first time admission than the public charter school is able to accept; and
- ~~10.02.09~~—a statement that the eligible entity will not discriminate on the basis of race, sex, national origin, ethnicity, religion, age, or disability in employment decisions including hiring and retention of administrators, teachers, and other employees, except as permitted in § 4.00 and ~~10.02.02~~.

~~10.03~~ Preference for Approval of Open Enrollment Public Charter Schools

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

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

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

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

~~11.00~~ License Applicants

~~11.01~~ In accordance with Ark. Code Ann. § 6-23-304, the Knowledge Is Power Program instructional program is recognized as an effective method for meeting the statutory purpose and intent of Ark. Code Ann. § 6-23-101 et seq., closing the achievement gap in public schools for economically disadvantaged, racial and ethnic subgroups, Ark. Code Ann. § 6-15-401 et seq. and Ark. Code Ann. § 6-15-1601 et seq., and otherwise providing an alternative, proven, adequate and equitable education to Arkansas students.

~~11.01.1~~ Any charter applicant that receives an approved open enrollment public charter under Section 10.04 of these rules may petition the State Board at any time for a charter school to be opened no earlier than July 1 of the following school year for additional licenses to establish an open enrollment public charter school in any of the various congressional districts in Arkansas provided that the applicant meets the following conditions, subject to the normal application, review, and approval process of the State Board, with the exception that the license request does not have to be initially sent to the local board for its consideration:

~~11.01.1.1~~ The approved open enrollment public charter applicant has demonstrated success in student achievement gains, as defined by the State Board; and

~~11.01.1.2~~ The approved open enrollment public charter applicant has not been subject to any disciplinary action by the State Board; has not been classified as in school improvement, academic or fiscal distress; and has not had its open enrollment public charter placed on probation, suspended or revoked; pursuant to Arkansas Code Annotated § 6-23-105; and

~~11.01.1.3~~ The State Board of Education determines in writing by majority of a quorum of the State Board present that the open enrollment public charter applicant has generally established the educational program results and criteria set forth in Section 10.05.1 of these rules.

~~11.02~~ Applicants for a license under this section of the rules are relieved from compliance with sections 8.01 and 8.02.

~~11.03~~ The State Board shall consider any such license petition within ninety (90) business days after it receives the petition, utilizing the same procedures set forth in Section 9.02.01 of these Rules.

~~12.00~~ Enrollment

~~12.01~~ Enrollment for an existing public school converted to a public charter school will be determined in the manner similar to the enrollment procedures for the school district in which the public charter school is located or similar to the enrollment procedures for district magnet schools.

~~12.02~~ If more eligible students apply for admission than the public charter school is able to accept, then the public charter school shall create an enrollment process based upon a random anonymous student selection method.

~~12.03~~ While a public charter school may operate on a traditional calendar or a year-long calendar, all public charter schools shall begin the school year in the fall.

~~12.04~~ Documented student enrollment as of July 30 of each school year shall be reported by open enrollment public charter schools.

~~12.05~~ An open enrollment public charter school may allow a preference for children of the founding members of the eligible entity. The number of enrollment preferences granted to the children of founding members shall not exceed ten percent (10%) of the total number of students enrolled in the open enrollment public charter school and siblings of students currently enrolled in the school.

~~12.06~~ A public charter school may allow the use of a weighted lottery in the student selection process when necessary to comply with Title VI of the federal Civil Rights Act of 1964, Title IX of the federal Education Amendments of 1972, the equal protection clause of the Fourteenth Amendment to the United States Constitution, a court order, or a federal or state law requiring desegregation, as permitted by the Charter Schools Program, Title V, Part B, Non-Regulatory Guidance of the United States of the Department of Education, July, 2004.

13.00—Funding**13.01—Funding for Public Charter Schools**

- ~~13.01.01—An existing public school converted to a public charter school shall receive funds equal to the amount apportioned by the district from state and local revenue per average daily membership.~~
- ~~13.01.02—An open enrollment public charter school shall receive funds equal to the amount that any a public school would receive under 6-20-2305 (a) and (b) as well as any other funding that the public charter school is entitled to receive under law.~~
- ~~13.01.03 For the first year of operation and for the first year the open-enrollment public charter school adds a new grade, the foundation funding and enhanced educational funding for an open-enrollment public charter school is determined as follows: an initial funding estimate shall be based upon the enrollment as of July 30 of the current school year. In December, funding will be adjusted based upon the current year first quarter average daily membership; and a final adjustment will be made after the current three-quarter average daily membership is established. For the second year and each school year thereafter (if new grade(s) have not been added), the previous year's average daily membership will be used to calculate foundation funding and any enhanced educational funding amounts. Charter schools receiving foundation funding based on prior year three-quarter ADM are eligible to receive student growth funding pursuant to §6-20-2305.~~
- ~~13.01.04—For the first year of operation, free or reduced price meal eligibility data as reported by October 1 of the current school year will be used to calculate the national school lunch state categorical funding under the State Board rules governing special needs funding, and for the second year and each school year of operation thereafter, the previous year's October 1 national school lunch student count as specified in State Board rules governing special needs funding will be used to calculate national school lunch state categorical funding for the open enrollment public charter school.~~
- ~~13.01.05—In the first year of operation the open enrollment public charter school shall receive professional development funding based upon the initial projected enrollment student count as of July 30 of the current school year multiplied by the per student professional development funding amount under §6-20-2305 (b) (5) for that school year. For the second year and each school year thereafter, professional development funding will be based upon the previous year's average daily~~

~~membership multiplied by the per student professional development funding amount under §6-20-2305 (b) (5) for that school year.~~

~~13.01.06—The Department of Education shall distribute other categorical funding under §6-20-2305 (a) and (b) for which an open enrollment public charter school is eligible as provided by state law and rules promulgated by the state board. Funding for Alternative Learning Education (ALE) students will be funded pursuant to §6-20-2305.~~

~~13.01.07—An open enrollment public charter school shall not be denied foundation funding, enhanced educational funding or categorical funding in any year of operation provided that the open enrollment public charter school submits to the department the number of students eligible for funding through the Arkansas Public School Computer Network (APSCN) reporting process as specified in applicable rules.~~

~~13.02—The Department of Education shall establish procedures to ensure that every public charter school receives the Federal funds for which the public charter school is eligible.~~

~~13.02.01—The Department of Education shall take such measures as necessary to ensure that a public charter school receives the federal funds for which the school is eligible not later than five (5) months after the public charter school first opens, notwithstanding the fact that the identity and characteristics of the students enrolling in the public charter school are not fully and completely determined until that public charter school actually opens.~~

~~13.02.02—The measures shall also ensure that every public charter school expanding its enrollment in any subsequent year of operation receives the federal funding for which the public charter school is eligible not later than five (5) months after such expansion.~~

~~13.03—The submission to an annual certified audit as required by Arkansas Code Annotated §6-23-101 et seq., shall be made according to Arkansas Law and to the Department of Education fiscal regulations and time lines. Failure to submit such audit in a timely manner shall result in suspension of state aid payments until such audit is received by the Department of Education. The school's fiscal year shall run from July 1 through June 30.~~

~~13.04—All open enrollment public charter schools operated by an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code are subject to the same auditing and accounting requirements as any other public school district in the state.~~

~~13.05—An open enrollment public charter school shall not use the moneys that it receives from the state for any sectarian program or activity or as collateral for debt. However, open enrollment public charter schools may enter into lease purchase agreements for school buildings built by private entities with facilities bonds exempt from federal taxes under 26 USCS 142(a) as allowed by 6-20-402. No indebtedness of an open enrollment public charter school shall ever become a debt of the state of Arkansas.~~

~~14.00—Evaluation, Monitoring and Reporting Requirements of the Public Charter Schools~~

~~14.01—The Arkansas Department of Education shall conduct an annual evaluation of all public charter schools. The Department may choose to contract with an outside party to conduct such an annual evaluation. The evaluation shall include, but not be limited to, consideration of the following:~~

~~14.01.01—student scores under the statewide assessment program described in § 6-15-433;~~

~~14.01.02—student attendance;~~

~~14.01.03—student grades;~~

~~14.01.04—student discipline incidents~~

~~14.01.05—socioeconomic data on students' families;~~

~~14.01.06—parent satisfaction with the school;~~

~~14.01.07—student satisfaction with the schools;~~

~~14.01.08—on-site monitoring of the facility; and~~

~~14.01.09—other terms of the school's charter.~~

~~14.02—The State Board of Education may require the charter holder to appear before the State Board to discuss the results of the evaluation and to present further information to the State Board as the Department or State Board deems necessary.~~

~~14.03—As a condition of its charter, each public charter school is required to provide an annual report to parents, the community and the State Board that details its progress in meeting its academic performance objectives.~~

~~14.04—Each public charter school shall participate in the Arkansas Public School Computer Network reporting requirements.~~

~~14.05 Each public charter school shall provide to the Department of Education the same data required of other public schools, unless such data requirement is waived by the terms of the charter.~~

~~**15.00 Basis and Procedure for Public Charter Modification, or Charter School Probation, Revocation, or Denial of Renewal.**~~

~~15.01 The State Board may modify the charter of a public charter school or it may place a public charter school on probation or revoke its charter or deny renewal of its charter at any time the State Board deems it necessary to do so.~~

~~15.02 The State Board shall notify the chief operating officer of the public charter school of the alleged violation of the school's charter or of the offense in question. The notice shall include the State Board's proposed action. The notice shall be delivered by certified mail to the chief operating officer of the public charter school.~~

~~15.03 The chief operating officer of the public charter school, on behalf of the charter school, may request, in writing, a hearing before the State Board.~~

~~15.04 The State Board shall hold a hearing, if requested, within forty five (45) calendar days of receipt of the hearing request.~~

~~15.05 The hearing shall be held at the location of the regular or special meeting of the State Board of Education.~~

~~15.05.01 Notice of the hearing shall be provided to the superintendent and the president of the local school board of the school district where the conversion public charter school is located or to the chief operating officer of the open enrollment public charter school.~~

~~15.05.02 The hearing shall be open to the public.~~

~~15.06 The decision of the State Board shall be final.~~

~~**16.00 Impact on Desegregation Efforts**~~

~~16.01 The applicant petitioners for each application for a proposed public charter school must include a written evaluation describing the potential impact on the efforts of a public school district or districts to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools.~~

~~16.02 The local board shall also prepare a written evaluation of the potential impact the proposed public charter school will have on the efforts of the public school district or districts to comply with court orders and statutory obligations to create~~

~~and maintain a unitary system of desegregated public schools. This evaluation shall be forwarded to the State Board.~~

~~16.03 — Technical assistance in this review may be provided by the Department of Education's section on Accountability and its unit on Desegregation Monitoring.~~

~~16.04 — The State Board of Education shall not approve any public charter school which hampers, delays, or in any manner negatively affects the desegregation efforts of a public school district or districts in this state.~~

~~17.00 — Renewal of Charters~~

~~17.01 — Each open enrollment public charter school and conversion public charter school must apply for renewal of its charter prior to expiration on a form prescribed by the Charter School Office, by a deadline set by the Charter School Office.~~

~~17.02 — A charter may be renewed by the State Board of Education for up to a five (5) year period. The State Board may decide not to renew a charter or to renew a charter for a period less than five years.~~

~~18.00 — Assets of School as Property of State~~

~~18.01 — Any holder of a charter for an open enrollment public charter school must give the Department at least thirty (30) business days' notice of its intent to cease operation as an open enrollment public charter school to allow the charter holder and the Department sufficient time to accomplish those items necessary and required to close the charter school.~~

~~18.02 — Upon dissolution of an open enrollment public charter school or upon non-renewal or revocation of the charter, all net assets of the open enrollment public charter school, including any interest or real property, purchased with public funds shall be deemed the property of the state, unless otherwise specified in the charter of an open enrollment charter school.~~

~~18.03 — If the open enrollment public charter school used state funds to purchase or finance personal property, real property, or fixtures for use by the open enrollment public charter school, the State Board of Education may require that the property be sold.~~

~~18.04 — The state has a perfected priority security interest in the net proceeds from the sale or liquidation of the property to the extent of the public funds used in the purchase. The open enrollment public charter school will assume sole responsibility of all expenditures at the close of the school.~~

**ARKANSAS DEPARTMENT OF EDUCATION
RULES GOVERNING LIMITED PUBLIC CHARTER SCHOOLS**

October 12, 2009

RECEIVED

DEC 12 2011

1.00 Regulatory Authority

1.01 These rules shall be known as the Arkansas Department of Education Governing Limited Public Charter Schools.

1.02 The State Board of Education enacted these rules pursuant to its authority under Arkansas Code Annotated §§6-11-105, 6-23-206, and 6-23-201 et seq.

2.00 Purpose of Regulations

2.01 The purposes of these rules are to implement §6-23-601, and to establish the requirements and procedures for the application of a limited public charter school and for monitoring a school once it has been granted a limited charter by the State Board of Education.

3.00 Definitions

For the purpose of these rules:

3.01 "Limited Public Charter School" is defined as a public school operating under the terms of a charter approved by the State Board of Education for the purposes of implementing an alternative comprehensive staffing and compensation program designed to enhance student and teacher performance and improve employee salaries, opportunities, and incentives.

3.02 "Application" is defined as the proposal for obtaining conversion public charter school status, open enrollment public charter school status, or limited public charter school status presented to the State Board of Education requesting to enter into a charter that describes the school and provides all of the information required by law and the Arkansas Department of Education, in the form prescribed by the Charter School Office. The term application shall be synonymous with the term petition, and the terms are interchangeable throughout these rules. The application, in addition to any conditions or requirements agreed upon by the State Board, will serve as the terms and conditions of the charter.

3.03 "Letter of Intent" is defined as a written notice submitted to the Department of Education Charter School Office that a public school district intends to file a limited public charter school application. Such letter of intent shall be submitted on forms provided by the Department of Education.

~~4.00 — Observance of Anti-Discrimination Laws~~

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

~~5.00 — Application Process, Schedule, Forms and Technical Assistance~~

- ~~5.01 — A procedure for establishing a limited public charter school shall be published by the Department of Education, as approved by the State Board of Education. All dates and requirements in the procedures for establishing a limited public charter school shall be strictly followed by the charter applicant.~~
- ~~5.02 — Application forms and other documents needed for the limited public charter school application process shall be provided by the Department of Education.~~
- ~~5.03 — Any requests for technical assistance by a charter applicant shall be made to the Department of Education Charter School Office.~~

~~6.00 — Limited Public Charter School — Application Approval Procedures~~

- ~~6.01 — Each limited public charter applicant must submit, by certified mail on or before the established deadline, to the Department of Education Charter School Office a letter of intent signed by the school board president.~~
- ~~6.02 — Each limited charter applicant shall prepare an application that describes the elements of the applicant's plan for establishing a limited public charter school. The application shall be on a form provided by the Department of Education. Technical assistance in preparing the application may be requested from the Department of Education Charter School Office.~~
- ~~6.03 — The application shall be reviewed by the local board of the public school district as a regular agenda item at their local board meeting. The local board shall vote to approve or disapprove the application. If approved, the local board shall forward the application with sufficient written proof of the local boards' approval of the application to the State Board of Education.~~

~~7.00 — Responsibilities of the State Board of Education — Limited Public Charter Schools~~

- ~~7.01 — The State Board shall not approve a limited public charter school application that has not been approved by the district's local board.~~
- ~~7.02 — The Department of Education shall review the application and present to the State Board a written evaluation of the application. A copy of the evaluation shall be sent to the applicant. The applicant will be allowed to submit a written response to the evaluation by an established deadline. The applicant will not be allowed to supplement the original application with additional documents or new information prior to the State Board review.~~
- ~~7.03 — The State Board shall review the applications for proposed limited public charter schools. The State Board shall vote whether or not to award charters to approved applications. The State Board may place conditions on the charters it awards.~~
- ~~7.04 — The State Board of Education may defer the vote to approve or disapprove a limited charter application in order to allow a limited charter applicant to make modifications or receive technical assistance to correct deficiencies in the application.~~
- ~~7.05 — The decision of the State Board of Education shall be final.~~

~~8.00 — Content of Application and Charter~~

- ~~8.01 — The limited public charter school application shall include, but is not limited to the following:
 - ~~8.01.01 — identification of the rules and the provisions of Title 6 of the Arkansas Code, if any, to be waived, with rationale for waiver request as allowed by Arkansas Code Annotated §6-23-601 (b) (1);~~
 - ~~8.01.02 — description of a plan for school improvement that addresses how the school will improve student learning and meet the state education goals;~~
 - ~~8.01.03 — description of how the certified employees at the limited public charter school will be involved developing and implementing the school improvement plan and in identifying performance criteria; and~~
 - ~~8.01.04 — description of the performance criteria that will be used during the initial period of the charter to measure the progress of the limited~~~~

~~public charter school in improving student learning and meeting or exceeding the state education goals.~~

~~8.02—In addition to the requirements identified in section 8.01, an application for a limited public charter school shall include, but is not limited to, the following:~~

~~8.02.01—description of admission, enrollment criteria and student selection processes, including a provision for a random, anonymous student selection method if more eligible students apply for a first time admission than the limited public charter school is able to accept, except as allowed for in Arkansas Code Annotated §6-23-306;~~

~~8.02.02—a statement that the school district will not discriminate in admission on the basis of gender, national origin, race, ethnicity, religion, disability, academic or athletic eligibility, although the charter may provide for the exclusion of a student who has been expelled from another public school district;~~

~~8.02.03—A limited public charter school located in a school district under court ordered desegregation may use a weighted lottery in the student selection process in accordance with Arkansas Code Annotated §6-23-306; and~~

~~8.02.04—a statement that the school district will not discriminate on the basis of race, sex, national origin, ethnicity, religion, age, or disability in employment decisions including hiring and retention of administrators, teachers, and other employees.~~

9.00—Enrollment

~~9.01—Enrollment for a limited public charter school will be determined in the manner similar to the enrollment procedures for the school district in which the limited public charter school is located.~~

~~9.02—If more eligible students apply for admission than the limited public charter school is able to accept, then the limited public charter school shall create an enrollment process based upon a random anonymous student selection method, except as allowed for in Arkansas Code Annotated §6-23-306.~~

10.00—Funding

~~10.01—A limited public charter school shall receive funds equal to the amount apportioned by the district from state and local revenue per average daily membership.~~

~~10.02 The Department of Education shall establish procedures to ensure that every limited public charter school receives the Federal funds for which the limited public charter school is eligible.~~

~~10.03 The submission of an annual certified audit as required by Arkansas Code Annotated §6-23-101 et seq. shall be made according to Arkansas Law and to the Department of Education fiscal regulations and time lines. Failure to submit such audit in a timely manner would result in suspension of state aid payments until such audit is received by the Department of Education. The school's fiscal year shall run from July 1 through June 30.~~

~~11.00 Evaluation, Monitoring and Reporting Requirements of Limited Public Charter Schools~~

~~11.01 The Arkansas Department of Education shall conduct an annual evaluation of all limited public charter schools, which shall include, but not be limited to, consideration of the following:~~

~~11.01.01 student scores on assessment instruments; and~~

~~11.01.02 other terms of the school's charter.~~

~~11.02 As a condition of its charter, each limited public charter school is required to provide an annual report to parents, the community, and the State Board that details its progress in meeting its academic performance objectives.~~

~~11.03 Each limited public charter school will participate in the Arkansas Public School Computer Network reporting requirements.~~

~~11.04 Each limited public charter school shall provide to the Department of Education the same data required of other public schools, unless such data requirement is waived by the terms of the charter.~~

~~12.00 Basis and Procedure for Charter Modification, or Limited Public Charter School Probation, Revocation, or Denial of Renewal.~~

~~12.01 The State Board may modify the charter of a limited public charter school or it may place a limited public charter school on probation or revoke its charter or deny renewal of its charter at any time the Board deems it necessary to do so.~~

~~12.02 The State Board shall notify the superintendent of the sponsoring school district of the alleged violation of the school's charter or of the offense in question. The notice shall include the State Board's proposed action. The notice shall be delivered by certified mail to the superintendent of the school district where the limited public charter school is located.~~

~~12.03 The superintendent of the school district where the limited public charter school is located, on behalf of the limited public charter school, may request, in writing, a hearing before the State Board.~~

~~12.04 The State Board shall hold a hearing, if requested, within forty five (45) calendar days of receipt of the hearing request.~~

~~12.05 The hearing shall be held at the facility at which the limited public charter school is located.~~

~~12.05.01 Notice of the hearing shall be provided to the superintendent and the president of the local school board of the school district where the limited public charter school is located.~~

~~12.05.02 The hearing shall be open to the public.~~

~~12.06 The decision of the State Board shall be final.~~

~~13.00 Impact on Desegregation Efforts~~

~~13.01 The petitioners of each application for a proposed limited public charter school must include a written evaluation describing the potential impact on the efforts of a public school district or districts to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools.~~

~~13.02 The local board shall also prepare a written evaluation of the potential impact the proposed limited public charter school will have on the efforts of the school district or districts to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools. This evaluation shall be forwarded to the State Board.~~

~~13.03 Each application for a proposed limited public charter school shall be examined for its effect on the minority and majority percentages of student enrollment in the public school districts within the limited public charter school's proposed population outreach.~~

ARKANSAS DEPARTMENT OF EDUCATION
RULES GOVERNING PUBLIC CHARTER SCHOOLS

RECEIVED

DEC 13 2011

BUREAU OF
LEGISLATIVE RESEARCH

1.00 REGULATORY AUTHORITY AND PURPOSE

1.01 These rules shall be known as the Arkansas Department of Education Rules Governing Public Charter Schools.

1.02 The State Board of Education enacted these rules pursuant to its authority as set forth in Ark. Code Ann. §§ 6-11-105, 6-23-101 et seq., 25-15-201 et seq., and Acts 987, 989, and 993 of 2011.

2.00 LEGISLATIVE AND REGULATORY INTENT

2.01 It is the intent of the Arkansas General Assembly, and of these rules, to provide opportunities for teachers, parents, pupils, and community members to establish and maintain public schools that operate independently from the existing structure of local school districts as a method to accomplish the following:

2.01.1 Improve student learning;

2.01.2 Increase learning opportunities for all students, with special emphasis on expanding learning experiences for students who are identified as low-achieving;

2.01.3 Encourage the use of different and innovative teaching methods;

2.01.4 Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the school site;

2.01.5 Provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system; and

2.01.6 Hold the schools established under this chapter accountable for meeting measurable student achievement standards.

Source: Ark. Code Ann. § 6-23-102

3.00 DEFINITIONS

- 3.01 “Academic Eligibility” means qualified for selection or admission based upon academic performance.
- 3.02 “Affected School District” means each public school district from which an open-enrollment public charter school is expected to draw students for the purposes of enrollment; the public school district in which the open-enrollment public charter school will be located; and each public school district that is contiguous to the public school district in which the open-enrollment public charter school will be located.
- 3.03 “Athletic Eligibility” means qualified for selection or admission based upon athletic performance or upon athletic eligibility requirements set forth by the Arkansas Activities Association.
- 3.04 “Application” means the proposal by a public school district or eligible entity for obtaining or renewing conversion public charter school status, open-enrollment public charter school status, or limited public charter school status. “Application” also includes a request made by an existing conversion public charter school, open-enrollment public charter school, or limited public charter school to change the physical location of the school, to amend the school’s charter, or to seek approval for licenses to open more schools. Source: Ark. Code Ann. § 6-23-103(1)
- 3.05 “Average daily membership” means the total number of days of school attended plus the total number of days absent by students in kindergarten through grade twelve (K-12) during the first three (3) quarters of each school year divided by the number of school days actually taught in the school district during that period of time rounded up to the nearest hundredth. Open-enrollment public charter school students who are enrolled in a curriculum that fulfills the requirements established by the State Board of Education under the Standards for Accreditation of Arkansas Public Schools and School Districts may be counted for average daily membership. Source: Current rule as modified by Ark. Code Ann. § 6-20-2303(3).
- 3.06 “Charter,” or “charter contract” means a performance-based contract for an initial five-year period between the State Board of Education and an approved applicant for public charter school status that exempts the public charter school from state

and local rules, regulations, policies, and procedures specified in the contract and from the provisions of Title 6 of the Arkansas Code specified in the contract. Source: Ark. Code Ann. § 6-23-103(2). For the purposes of these rules, the initial five-year period of a charter begins to run on the July 1 following approval of the charter unless otherwise specified by the State Board. The period for any subsequent renewal of an initial charter shall begin to run on the July 1 following approval of the renewal.

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

3.08 “Debt” means any financial obligation incurred by a public charter school which will not be paid in full by the end of the same fiscal year in which the financial obligation is incurred. For the purposes of this rule, “debt” also includes any short term line-of-credit. A “line of credit” is defined as any agreement by a lender or potential creditor to advance funds in the form of a loan. Source: Current rule as modified herein.

3.09 “Eligible entity” means:

3.09.1 A public institution of higher education;

3.09.2 A private nonsectarian institution of higher education;

3.09.3 A governmental entity; or

3.09.4 An organization that:

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

3.09.4.2 Has applied for tax0exempt status under § 501(c)(3) of the Internal Revenue Code of 1986. The eligible entity must obtain status as a tax-exempt organization under § 501 (c)(3) of the Internal Revenue Code of 1986 prior to the first day of its operation with students.

Source: Ark. Code Ann. § 6-23-103(4).

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

3.10.1 A member or an employee of the eligible entity applying for the initial charter for an open-enrollment public charter school; or

3.10.2 A member of the initial governing nonadvisory board of the open-enrollment public charter school.

Source: Ark. Code Ann. § 6-23-103(5).

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

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

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

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

3.15 “Net assets” refers to the status of particular items upon the occurrence of the dissolution, nonrenewal, or revocation of the charter, with the purpose being to identify publicly-funded unencumbered assets as property of the state at that point. Source: Attorney General Opinion No. 2007-204

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

3.16.1 Is operating under the terms of a charter granted by the State Board of Education on the application of an eligible entity;

3.16.2 May draw its students from any public school district in this state; and

3.16.3 Is a local educational agency under the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 7801, as it existed on April 10, 2009.

3.16.4 “Open-enrollment public charter school” also possesses the same meaning as given the term “charter school” in the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 7221i, as it existed on April 10, 2009.

Source: Ark. Code Ann. § 6-23-103(8).

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

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

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

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

4.00 RULES APPLICABLE TO ALL PUBLIC CHARTER SCHOOLS

4.01 Charter Form for Public Charter Schools – Requirements – Revision

4.01.1 A charter for a public charter school shall:

4.01.1.1 Be in the form of a written contract signed by the Chair of the State Board of Education and the chief operating officer of the public charter school;

4.01.1.2 Satisfy the requirements of Title 6, Chapter 23 of the Arkansas Code and of these rules; and

4.01.1.3 Ensure that the information required under Ark. Code Ann. § 6-23-404 is consistent with the information provided in the application and any modification that the State Board of Education may require.

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

Source: Ark. Code Ann. § 6-23-104

4.02 State Board Hearing Notice Requirements

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

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

4.02.3 For applications seeking State Board approval for a change in the physical location of a public charter school, the public charter school applicant shall submit such an application not later than forty-five (45) days prior to the date of the State Board meeting at which the application will be heard. For open-enrollment public charter schools, each such application shall be contemporaneously sent by the applicant to the superintendent of the local school district in which the public charter school is located.

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

4.02.3.2 Applications for a change in the physical location of a public charter school shall include maps of the present and proposed future locations of the charter school, and shall

identify the local public school district in which the proposed future location will be located.

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

4.02.4 For applications seeking State Board approval for other amendments to a public school charter, the public charter school applicant shall submit such an application not later than forty-five (45) days prior to the date of the State Board meeting at which the application will be heard. For open-enrollment public charter schools, each such application shall be contemporaneously sent by the applicant to the superintendent of the local school district in which the public charter school will be located.

4.02.5 For applications seeking State Board approval for licenses for an existing open-enrollment public charter school, the open-enrollment public charter school applicant shall submit such an application for license not later than forty-five (45) days prior to the date of the State Board meeting at which the application will be heard. Each such application shall be contemporaneously sent by the applicant to the superintendent of the local school district in which the public charter school will be located.

4.02.6 Under circumstances involving imminent peril to the health, welfare, or safety of students, or under circumstances that may negatively impact the continuation of educational services offered by the public charter school, and upon written request from the public charter school, the Commissioner of Education or his or her designee may waive the forty-five (45) day deadline set forth in Sections 4.02.2 through Sections 4.02.5 of these rules. The decision of whether to grant such a waiver is within the sole discretion of the Commissioner of Education or his or her

designee. If the Commissioner of Education, or his or her designee, grants such a waiver, he or she shall also adjust the resulting deadlines for local school districts and Department of Education staff contained in Sections 4.04.5 and 4.04.6 of these rules.

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

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

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

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

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

4.03.1.4 Failed to meet academic or fiscal performance criteria deemed appropriate and relevant for the public charter school by the State Board.

4.03.1.5 Pursuant to the federal mandate contained in P.L. 111-117, 123 Stat. 3264, the State Board will consider increases in student academic achievement for all groups of students described in Section 1111 (b)(2)(C)(v) of the Elementary and Secondary Education Act as a primary factor in determining whether to non-renew or revoke a public charter school's charter. However, any one of the circumstances listed in Sections 4.03.1.1 through 4.03.1.4 of these rules may be reason enough to non-renew or revoke a public charter school's charter.

4.03.2 Any action the State Board may take under Ark. Code Ann. § 6-23-105 and Section 4.02 of these rules shall be based on the best interests of the

public charter school's students, the severity of the violation, and any previous violation the public charter school may have committed.

4.03.3 The State Board's procedures for placing a public charter school on probation or modifying, revoking, or denying renewal of the school's charter can be found in these rules as follows:

4.03.3.1 Conversion public charter schools: Section 5.07

4.03.3.2 Open-enrollment public charter schools: Section 6.24

4.03.3.3 Limited public charter schools: Section 7.12

4.03.4 There is no further right of appeal beyond the determination of the State Board.

4.03.5 The Arkansas Administrative Procedure Act, § 25-15-201 et seq., shall not apply to any hearing concerning a public charter school.

Source: Ark. Code Ann. § 6-23-105.

4.04 Impact on School Desegregation Efforts

4.04.1 The applicants for a public charter school, local school board in which the proposed public charter school would be located, and the State Board shall carefully review the potential impact of an application for a public charter school on the efforts of a public school district or public school districts to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools.

4.04.2 The State Board shall attempt to measure the likely impact of a proposed public charter school on the efforts of public school districts to achieve and maintain a unitary system.

4.04.3 The State Board shall not approve any public charter school under Title 6, Chapter 23, or any other act or any combination of acts that hampers, delays, or in any manner negatively affects the desegregation efforts of a public school district or public school districts in this state.

4.04.4 A public charter school or applicant shall provide to the Department of Education, with a copy to the local school board for the school district in which the public charter school will be located, a desegregation analysis carefully reviewing the potential impact of the public charter school's application or request on the efforts of a public school district or public school districts to comply with court orders and statutory obligations to create and maintain a unitary system of desegregated public schools:

4.04.4.1 In its initial application for a public charter school charter;

4.04.4.2 In its renewal application for its existing public charter school charter;

4.04.4.3 In its application to change the physical location of its existing charter school if required by the Commissioner of Education in accordance with Section 4.02.3 of these rules;

4.04.4.4 In any application to amend its existing charter to increase its enrollment cap or add grade levels; and

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

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

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

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

- 4.04.5.3 Not later than twenty (20) days prior to the State Board's consideration of a change in the physical location of a public charter school *if required by the Commissioner of Education in accordance with Section 4.02.3 of these rules;*
- 4.04.5.4 Not later than twenty (20) days prior to the State Board's consideration of a proposed amendment to a public charter that includes an increased enrollment cap or the addition of grade levels; and
- 4.04.4.5 Not later than twenty (20) days prior to the State Board's consideration of a proposed license for an existing open-enrollment public charter school.
- 4.04.5.6 Failure of the local school board of the district in which the proposed public charter school will be located to submit to the Department of Education a desegregation analysis as set forth above shall result in a waiver of the local school board's right to submit such a desegregation analysis to the State Board.
- 4.04.6 In accordance with Section 4.04 of these rules, the Department of Education staff shall submit to the State Board, with copies to the public charter school or applicant and the local school board of the school district in which the public charter school is or will be located, a desegregation analysis:
- 4.04.6.1 Not later than ten (10) days prior to the State Board's consideration of an initial application of a public charter school;
- 4.04.6.2 Not later than ten (10) days prior to the State Board's consideration of a renewal application of a public charter school;
- 4.04.6.3 Not later than ten (10) days prior to the State Board's consideration of a change in physical location of a public charter school *if required by the Commissioner of Education in accordance with Section 4.02.3 of these rules;*

- 4.04.6.4 Not later than ten (10) days prior to the State Board's consideration of a proposed amendment to a public charter that includes an increased enrollment cap or the addition of grade levels;
- 4.04.6.5 Not later than ten (10) days prior to the State Board's consideration of an application for a license for an existing open-enrollment public charter school; and
- 4.04.6.5 At any other time as directed by the State Board or the Commissioner of Education.
- 4.04.6.6 The Department of Education's desegregation analysis will include as attachments the desegregation analyses provided by the applicant for a public charter school and the local school board in which the public charter school will be located.

Source: Ark. Code Ann. § 6-23-106.

4.05 Observance of Anti-Discrimination Laws

- 4.05.1 All public charter schools shall observe and comply with all anti-discrimination laws, both federal and state, except where otherwise exempted under federal charter school law.
- 4.05.2 All public charter schools are responsible for meeting the requirements of the Individuals with Disabilities Act (IDEA) and these rules.
- 4.05.3 All public charter schools are responsible for meeting the requirements of Section 504 of the Rehabilitation Act.

Source: Current rules as modified.

4.06 Reporting Requirements

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

4.06.1.1 The number of applications for enrollment received;

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

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

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

4.06.2.1 The number of students in each of the following categories:

4.06.2.1.1 Students who dropped out of the public charter school during the school year;

4.06.2.1.2 Students who were expelled during the school year by the public charter school;

4.06.2.1.3 Students who were enrolled in the public charter school but for a reason other than those cited under Sections 4.06.2.1.1 and 4.06.2.1.2 did not complete the school year at the public charter school;

4.06.2.1.4 Students identified in Sections 4.06.2.1.1 through 4.06.2.1.3 who transferred to another open-enrollment public charter school;

4.06.2.1.5 Students identified in Sections 4.06.2.1.1 through 4.06.2.1.3 who transferred to a private school;

- 4.06.2.1.6 Students identified in Sections 4.06.2.1.1 through 4.06.2.1.3 who transferred to a home school;
- 4.06.2.1.7 Students identified in Sections 4.06.2.1.1 through 4.06.2.1.3 who transferred to a school outside of Arkansas; and
- 4.06.2.1.8 Students identified in Sections 4.06.2.1.1 through 4.06.2.1.3 who transferred to a traditional public school district within Arkansas.
- 4.06.2.1.9 The report shall identify the dates of transfer for all students identified in Section 4.06.2.1.8.
- 4.06.2.2 For all students enrolled in the public charter school, the scores for assessments required under the Arkansas Comprehensive Testing, Assessment, and Accountability Program Act, § 6-15-401 et seq., including without limitation benchmark assessments and end-of-course assessments
- 4.06.2.3 If there is any discrepancy in the number of students for whom scores are reported under Section 4.06.2.2 of these rules, and the number of students enrolled at the beginning of the school year, the public charter school shall explain in the report the reason for the discrepancy.
- 4.06.3 The Department of Education shall not exempt a public charter school from the reporting required under Section 4.06 of these rules.
- 4.06.4 The Department of Education shall publish a copy of each report on the department's website.
- 4.06.5 If a public charter school fails to comply with Ark. Code Ann. § 6-23-107 and Section 4.06 of these rules, the Department of Education shall note the failure in the annual evaluation of the public charter school.

4.06.6 Every public charter school shall furnish any other information, record, or report requested by the Department of Education Charter School Office unless disclosure of the information, record, or report is explicitly prohibited by court order or by federal or state law.

4.06.7 The Department of Education Charter School Office shall, at least annually, post on the Department of Education's website a list of deadlines for which legally required reports are due from the public charter school to the Department of Education.

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

4.07 Public Charter Schools Receiving Federal Dissemination Grants from the Arkansas Department of Education

4.07.1 Public Charter Schools that receive federal dissemination grant funds from the Department of Education shall, by July 1 of each year, provide the Department of Education Charter School Office with a list of the public charter school's best or promising practices in accordance with their approved dissemination grant applications.

4.07.2 By August 1 of each year, the Department of Education Charter School Office will post a link of each public charter school's best or promising practices on the Department of Education's website.

4.08 Application Process, Schedule and Forms

4.08.1 A procedure for establishing a public charter school shall be published by the Department of Education as approved by the State Board.

4.08.2 All dates and requirements listed in the procedures for establishing a public charter school shall be strictly followed by the public charter school applicant.

4.08.3 If all dates and requirements listed in the procedures for establishing a public charter school are not strictly followed by the public charter school applicant, the State Board may refuse to consider the application.

4.08.4 Application forms and other documents needed for the public charter school application process shall be provided by the Arkansas Department

of Education Charter School Office and are incorporated into these rules as if fully set forth herein.

4.08.5 Any requests for technical assistance by a charter applicant shall be made to the Arkansas Department of Education Charter School Office.

4.08.6 Letter of Intent: Each public charter school letter of intent shall be submitted by the potential applicant by certified mail or hand delivery and must be received by the Department of Education Charter School Office on or before the established deadline. The Department of Education Charter School Office may refuse to process or review any letter of intent not received by the established deadline.

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

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

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

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

5.00 RULES APPLICABLE TO CONVERSION PUBLIC CHARTER SCHOOLS

5.01 Application for Conversion Public Charter School Status

5.01.1 Any public school district may apply to the State Board for conversion public charter school status for a public school in the public school district in accordance with a schedule approved by the State Board. The State

Board shall not approve an application for conversion public charter school status that has not first been approved by the school district's board of directors.

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

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

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

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

5.01.3 An application for a conversion public charter school shall:

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

5.01.3.2 Notice of the public hearing shall be:

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

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

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

- 5.01.3.4 Outline proposed performance criteria that will be used during the initial five-year period of the charter to measure the progress of the conversion public charter school in improving student learning and meeting or exceeding the state education goals;
- 5.01.3.5 Describe how the licensed employees and parents of the students to be enrolled in the conversion public charter school will be involved in developing and implementing the school improvement plan and identifying performance criteria;
- 5.01.3.6 Describe how the concerns of licensed employees and parents of students enrolled in the conversion public charter school will be solicited and addressed in evaluating the effectiveness of the improvement plan; and
- 5.01.3.7 List the specific provisions of Title 6 of the Arkansas Code and the specific rules and regulations promulgated by the State Board from which the public charter school will be exempt.
- 5.01.4 A licensed teacher employed by a public school in the school year immediately preceding the effective date of a charter for a public school conversion within that public school district may not be transferred to or be employed by the conversion public charter school over the licensed teacher's objection, nor shall that objection be used as a basis to deny continuing employment within the public school district in another public school at a similar grade level.
- 5.01.5 If the transfer of a teacher within the public school district is not possible because only one (1) public school exists for that teacher's certification level, then the local school board shall call for a vote of the licensed teachers in the proposed conversion public charter school site and proceed, at the local school board's option, with the conversion public charter school application if a majority of the licensed teachers approve the proposal.

Source: Ark. Code Ann. § 6-23-201.

5.02 Authorization for Conversion Public Charter School Status

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

5.02.1.1 Provides a plan for improvement at the school level for improving student learning and for meeting or exceeding the state education goals;

5.02.1.2 Includes a set of performance-based objectives and student achievement objectives for the term of the charter and the means for measuring those objectives on at least a yearly basis;

5.02.1.3 Includes a proposal to directly and substantially involve the parents of students to be enrolled in the conversion public charter school, as well as the licensed employees and the broader community, in the process of carrying out the terms of the charter; and

5.02.1.4 Includes an agreement to provide a yearly report to parents, the community, the local school board, and the State Board that indicates the progress made by the conversion public charter school in meeting the performance objectives during the previous year.

Source: Ark. Code Ann. § 6-23-202.

5.03 Resubmission of Conversion Public Charter School Applications

5.03.1 The State Board may allow applicants to resubmit applications for conversion public charter school status if the original application was, in the opinion of the State Board, deficient in one (1) or more respects.

5.03.2 The Department of Education may provide technical assistance to the conversion public charter school applicants in the creation or modification of these applications.

Source: Ark. Code Ann. § 6-23-203

5.04 Public Conversion Charter School Renewal: The State Board is authorized to renew charters of conversion public charter schools on a one-year or multiyear basis, not to exceed five (5) years, after the initial five-year period if the renewal is approved by the local school board.

Source: Ark. Code Ann. § 6-23-204

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

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

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

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

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

5.06.4 The conversion public charter school applicant shall have five (5) minutes to respond to any arguments in opposition to the conversion public charter

school application. The Chair of the State Board may grant additional time, if necessary.

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

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

5.06.7 The State Board may defer the vote to approve or disapprove a charter application in order to allow a charter applicant to make modifications or receive technical assistance to correct deficiencies in the application.

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

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

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

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

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

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

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

6.00 RULES APPLICABLE TO OPEN-ENROLLMENT PUBLIC CHARTER SCHOOLS

6.01 Application for an Open-Enrollment Public Charter School

6.01.1 Pursuant to Title 6, Chapter 23 of the Arkansas Code and these rules, an eligible entity may apply to the State Board to grant a charter for an open-enrollment public charter school to operate in a facility of a commercial or nonprofit entity or a public school district.

6.01.2 The State Board shall adopt an application form, schedule, and a procedure that must be used to apply for an open-enrollment public charter school.

6.01.3 The State Board shall adopt criteria to use in selecting a program for which an open-enrollment public charter may be granted.

6.01.4 The application to the State Board for an open-enrollment public charter school shall be made in accordance with a schedule approved by the State Board.

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

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

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

6.01.6.1.1 Notice of the public hearing shall be published one (1) time a week for three (3) consecutive weeks in a newspaper having general circulation in the public school

district in which the open-enrollment public charter school is likely to be located.

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

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

6.01.6.1.2 Within seven (7) calendar days following the first publication of notice required under Section 6.01.6.1.1 of these rules, letters announcing the public hearing shall be sent to the superintendent of each of the public school districts from which the open-enrollment public charter school is likely to draw students for the purpose of enrollment and the superintendent of any public school district that is contiguous to the public school district in which the open-enrollment public charter school will be located.

6.01.6.1.3 An affected school district may submit written comments concerning the application to the State Board to be considered at the time of the State Board's review of the application.

6.01.6.2 Describe a plan for academic achievement that addresses how the open-enrollment public charter school will improve student learning and meet the state education goals;

6.01.6.3 Outline the proposed performance criteria that will be used during the initial five-year period of the open-enrollment public charter school operation to measure its progress in

improving student learning and meeting or exceeding the state education goals;

6.01.6.4 List the specific provisions of Title 6 of the Arkansas Code and the specific rules and regulations promulgated by the State Board from which the open-enrollment public charter school seeks to be exempted;

6.01.6.5 Describe the facility to be used for the open-enrollment public charter school and state the facility's current use.

6.01.6.5.1 If the facility to be used for an open-enrollment public charter school is a public school district facility, the open-enrollment public charter school must operate in the facility in accordance with the terms established by the local school board of the public school district in an agreement governing the relationship between the open-enrollment public charter school and the public school district.

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

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

6.01.7 Review and Approval by the Local School Board:

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

6.01.7.2 Any decision by the local school board approving or disapproving the application must be made within forty-

five (45) days of the local school board's receipt of the application.

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

6.01.7.4 If the local school board disapproves the application, the applicant shall have an immediate right to proceed with a written notice of appeal to the State Board.

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

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

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

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

6.03 Authorization for an Open-Enrollment Public Charter School

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

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

6.03.1.2 Includes a set of performance criteria that will be used during the initial five-year period of the open-enrollment

public charter school's operation to measure its progress in meeting its academic performance goals;

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

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

6.03.1.5 Includes a detailed budget, a business plan, and a governance plan for the operation of the open-enrollment public charter school; and

6.03.1.6 Establishes the eligible entity's status as a tax-exempt organization under § 501(c)(3) of the Internal Revenue Code of 1986 prior to the first day of its operation with students.

Source: Ark. Code Ann. § 6-23-303

6.04 Other Application Requirements – Preference for Certain Districts

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

6.04.1.1 Criteria provided by law or by rule adopted by the State Board;

6.04.1.2 Findings of the State Board relating to improving student performance and encouraging innovative programs;

6.04.1.3 Written findings or statements received by the State Board from any public school district likely to be affected by the open-enrollment public charter school.

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

6.04.2.1 When the percentage of students who qualify for free or reduced-price lunches is above the average for the state;

6.04.2.2 When the district has been classified by the State Board as in academic distress under Ark. Code Ann. § 6-15-428; or

6.04.2.3 When the district has been classified by the Department of Education as in some phase of school improvement status under Ark. Code Ann. § 6-15-426 or some phase of fiscal distress under the Arkansas Fiscal Assessment and Accountability Program, § 6-20-1901 et seq., if the fiscal distress status is a result of administrative fiscal mismanagement, as determined by the State Board.

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

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

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

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

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

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

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

6.05 Open-Enrollment Public Charter School Licenses

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

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

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

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

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

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

6.05.1.2.4 The State Board determines in writing by a majority of a quorum of the State Board present that the open-enrollment public

charter applicant has generally established the educational program results and criteria set forth in Section 6.05 of these rules.

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

6.06 Resubmission of Open-Enrollment Public Charter School Applications

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

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

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

Source: Ark. Code Ann. § 6-23-305

6.07 Contents of Open-Enrollment Public Charters

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

6.07.1.1 Describe the educational program to be offered;

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

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

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

6.07.1.5 Specify any basis, in addition to a basis specified by Title 6, Chapter 23 of the Arkansas Code or Section 4.03 of these rules, on which the open-enrollment public charter school may be placed on probation or its charter revoked or on which renewal of the open-enrollment public charter school may be denied;

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

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

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

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

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

method that shall be described in the charter application.

6.07.1.14.1.1 If there are still more applications for admissions than the open-enrollment public charter school is able to accept after the completion of the random, anonymous student selection method, then the open-enrollment public charter school shall place the applicants on a waiting list for admission.

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

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

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

6.07.1.14.2.2 Siblings of students currently enrolled in the open-

enrollment public charter school.

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

6.07.1.14.3.1 Federal court order; or

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

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

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

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

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

6.09 Priority Hiring for Teachers: If a licensed teacher employed by a public school district in the school year immediately preceding the effective date of the open-enrollment public charter is employed by an open-enrollment public charter school and the open-enrollment public charter is revoked, the licensed teacher will receive a priority in hiring for the first available position for which the licensed teacher is qualified in the school district where the licensed teacher was formerly employed.

Source: Ark. Code Ann. § 6-23-308

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

Source: Ark. Code Ann. § 6-23-310

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

6.11.1 An open-enrollment public charter school:

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

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

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

6.11.1.4 Shall have no authority to impose taxes;

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

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

6.11.1.5.2 *Under circumstances involving imminent peril to the health, welfare, or safety of students, or under circumstances that may negatively impact the continuation of educational services offered by the public charter school, and upon written request from the public charter school, the Commissioner of Education may waive the thirty (30) day deadline set forth in Section 6.11.1.5.1 of these rules. The decision of whether to grant such a waiver is within the sole discretion of the Commissioner of Education.*

6.11.1.6 Shall not charge students tuition or fees that would not be allowable charges in the public school districts; and

6.11.1.7 Shall not be religious in its operations or programmatic offerings.

6.11.2 An open-enrollment public charter school is subject to any prohibition, restriction, or requirement imposed by Title 6 of the Arkansas Code and any rule and regulation promulgated by the State Board under Title 6 of the Arkansas Code relating to:

6.11.2.1 Monitoring compliance with Title 6 of the Arkansas Code, as determined by the Commissioner;

6.11.2.2 Public school accountability under Title 6 of the Arkansas Code;

6.11.2.3 High school graduation requirements as established by the State Board;

- 6.11.2.4 Special education programs as provided by Title 6 of the Arkansas Code;
- 6.11.2.5 Conducting criminal background checks for employees as provided by Title 6 of the Arkansas Code;
- 6.11.2.6 Health and safety codes as established by the State Board and local governmental entities; and
- 6.11.2.7 Ethical guidelines and prohibitions as established by Ark. Code Ann. § 6-24-101 et seq., and any other controlling state or federal law regarding ethics or conflicts of interest.

Source: Ark. Code Ann. § 6-23-401

6.12 Enrollment Numbers and Deadline:

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

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

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

6.13.1 Any other provision of the Arkansas Code or these rules notwithstanding, an open-enrollment public charter school shall be subject to the same auditing and accounting requirements as any other public school district in the state.

6.13.2 An open-enrollment public charter school shall prepare an annual certified audit of the financial condition and transactions of the open-enrollment public charter school as of June 30 each year in accordance with auditing standards generally accepted in the United States and Government Auditing Standards issued by the Comptroller General of the United States, and containing any other data as determined by the State Board.

6.13.3 If the school is an open-enrollment public charter school in its first year of operation, the Legislative Auditor shall prepare the required annual financial audit for the school unless:

6.13.3.1 The open-enrollment public charter school chooses to retain the services of a licensed certified public accountant in public practice in good standing with the Arkansas State Board of Public Accountancy; and

6.13.3.2 The State Board of Education approves the open-enrollment public charter school's use of an entity other than the Legislative Auditor to prepare the annual financial audit.

6.13.4 No open-enrollment public charter school shall engage an accountant or accounting firm to conduct any audit if the accountant or accounting firm is listed on any ineligibility list maintained by the Department of Education or the Division of Legislative Audit.

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

6.14 Evaluation of Open-Enrollment Public Charter Schools:

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

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

- 6.14.2.1 Student scores under the statewide assessment program described in Ark. Code Ann. § 6-15-433;
- 6.14.2.2 Student attendance;
- 6.14.2.3 Student grades;
- 6.14.2.4 Incidents involving student discipline;
- 6.14.2.5 Socioeconomic data on students' families;
- 6.14.2.6 Parental satisfaction with the schools;
- 6.14.2.7 Student satisfaction with the schools; and
- 6.14.2.8 The open-enrollment public charter school's compliance with Ark. Code Ann. § 6-23-107 and Section 4.06 of these rules.

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

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

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

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

6.16 Department of Education Review: The Department of Education shall:

6.16.1 Conduct an end-of-semester review of each open-enrollment public charter school that is in its initial school year of operation at the end of the first semester and at the end of the school year; and

6.16.2 Report to the State Board on the open-enrollment public charter school's:

6.16.2.1 Overall financial condition; and

6.16.2.2 Overall condition of student enrollment.

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

6.17 Funding for Open-Enrollment Public Charter Schools

6.17.1 An open-enrollment public charter school shall receive funds equal to the amount that a public school would receive under Ark. Code Ann. § 6-20-2305(a) and (b) as well as any other funding that a public charter school is entitled to receive under law or under rules promulgated by the State Board.

6.17.2 For the first year of operation and any year the open-enrollment public charter school adds a new grade, the foundation funding for an open-enrollment public charter school is determined as follows:

6.17.2.1 The initial funding estimate shall be based on enrollment as of the deadline established by Ark. Code Ann. § 6-23-501;

6.17.2.2 In December, funding will be adjusted based upon the first quarter average daily membership; and

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

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

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

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

6.17.8 Foundation funding for an open-enrollment public charter school shall be paid in twelve (12) installments each fiscal year.

6.17.9 An open-enrollment public charter school may receive any state and federal aids, grants, and revenue as may be provided by law.

6.17.10 Open-enrollment public charter schools may receive gifts and grants from private sources in whatever manner is available to public school districts.

6.17.11 An open-enrollment public charter school shall have a right of first refusal to purchase or lease for fair market value a closed public school facility or unused portions of a public school facility located in a public school district from which it draws students if the public school district decides to sell or lease the public school facility.

6.17.11.1 The public school district may not require lease payments that exceed the fair market value of the property.

6.17.11.2 The application of this Section 6.17.11 is subject to the rights of a repurchase under Ark. Code Ann. § 6-13-103 regarding property taken by eminent domain.

6.17.11.3 A public school district is exempt from the requirements of this Section 6.17.11 if the public school district, through an open bid process, receives and accepts an offer to lease or purchase the property from a purchaser other than the open-enrollment public charter school for an amount that exceeds the fair market value.

6.17.11.4 The purposes of this Section 6.17.11 are to:

6.17.11.4.1 Acknowledge that taxpayers intended a public school facility to be used as a public school; and

6.17.11.4.2 Preserve the option to continue that use.

6.17.11.5 Nothing in this Section 6.17.11 is intended to diminish the opportunity for an Arkansas Better Chance program to bid on the purchase or lease of the public school facility on an equal basis as the open-enrollment public charter school.

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

6.18 Source of Funding for Open-Enrollment Public Charter Schools

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

6.18.2 The amount set aside shall be determined by the State Board.

Source: Ark. Code Ann. § 6-23-502

6.19 Use of Funding by Open-Enrollment Public Charter Schools

6.19.1 An open-enrollment public charter school may not use the moneys that it receives from the state for any sectarian program or activity or as collateral for debt.

6.19.2 No indebtedness of any kind incurred or created by the open-enrollment public charter school shall constitute an indebtedness of the state or its political subdivisions, and no indebtedness of the open-enrollment public charter school shall involve or be secured by the faith, credit, or taxing power of the state or its political subdivisions.

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

Source: Ark. Code Ann. § 6-23-503

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

Source: Ark. Code Ann. § 6-23-504

6.21 Deposit and Management of Charter School Funds

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

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

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

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

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

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

6.22.2 If the open-enrollment public charter school used state funds to purchase or finance personal property, real property, or fixtures for use by the open-enrollment public charter school, the State Board may require that the property be sold.

6.22.3 The state has a perfected priority security interest in the net proceeds from the sale or liquidation of the property to the extent of the public funds used in the purchase.

Source: Ark. Code Ann. § 6-23-506

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

- 6.23.1 All persons, with the exception of the attorneys representing the parties, who plan to provide testimony during the hearing must be sworn by a certified court reporter.
- 6.23.2 The open-enrollment public charter school applicant shall have twenty (20) minutes to present its case to the State Board for approval of the proposed open-enrollment public charter school. The Chair of the State Board may grant additional time, if necessary.
- 6.23.3 Parties opposed to the open-enrollment public charter school application, if any, shall have twenty (20) minutes to present its case to the State Board for disapproval of the proposed open-enrollment public charter school. The Chair of the State Board may grant additional time, if necessary.
- 6.23.4 The open-enrollment public charter school applicant shall have five (5) minutes to respond to any arguments in opposition to the open-enrollment public charter school application. The Chair of the State Board may grant additional time, if necessary.
- 6.23.5 The State Board will follow the presentation with discussion of the open-enrollment public charter school application and questions, if any, to the open-enrollment public charter school applicant, opposing parties, or both.
- 6.23.6 The State Board may issue a final decision at the hearing or take the matter under advisement until a future scheduled board meeting.
- 6.23.7 The State Board may defer the vote to approve or disapprove a charter application in order to allow a charter applicant to make modifications or receive technical assistance to correct deficiencies in the application.
- 6.23.8 During the roll call vote on each open-enrollment public charter initial application, if a particular State Board member votes against the initial application, that State Board member should state his or her reasons for disapproval as necessary to comply with Ark. Code Ann. § 6-23-305.

6.24 State Board Hearing Procedures Related to Open-Enrollment Public Charter Schools (State Board Modification, Probation or Revocation of Charter)

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

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

6.24.3 Arkansas Department of Education staff shall have twenty (20) minutes to present its case to the State Board for modification, probation, or revocation of an open-enrollment public charter school charter. The Chair of the State Board may grant additional time, if necessary.

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

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

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

6.25 Charter School Facilities

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

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

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

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

7.00 RULES APPLICABLE TO LIMITED PUBLIC CHARTER SCHOOLS

7.01 Any public school may apply to the State Board for limited public charter school status for alternative comprehensive staffing and compensation programs designed to enhance student and teacher performance and improve employee salaries, opportunities, and incentives, to be known as a “limited public charter school.” The State Board shall not approve an application for limited public charter school status that has not first been approved by the school district’s board of directors.

7.02 A limited public charter school shall be for the purpose of instituting alternative staffing practices in accordance with a schedule approved by the State Board.

7.03 A limited public charter school shall be initially established for no more than five (5) years and may be renewed on a one-year or multiyear basis, not to exceed five (5) years per charter renewal.

7.04 The application for a limited public charter school shall:

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

7.04.1.1 The provisions from which the public school district may be exempt for the limited public charter school only shall be limited to the following:

7.04.1.1.1 The duty-free lunch period requirements set forth in Ark. Code Ann. § 6-17-111;

7.04.1.1.2 The daily planning period requirements set forth in Ark. Code Ann. § 6-17-114;

7.04.1.1.3 The committee on personnel policies requirements set forth in Ark. Code Ann. § 6-17-201 et seq., and

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

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

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

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

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

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

8.01 Required Notices

8.01.1 No later than seven (7) days after the State Board votes to non-renew or revoke the charter, or the charter otherwise dissolves, the charter school or sponsoring entity shall furnish to the Department of Education:

8.01.1.1 A complete inventory of all personal property, real property, equipment, and fixtures owned or financed by the charter school, with documentation showing a description of each asset, serial number, tag number, location, estimated value, any encumbrance on the asset including recorded security interest or lien, and the source of funds for each purchase;

8.01.1.2 The account number and financial institution contact information for every account in which the charter school

or sponsoring entity deposited any state or federal funds at any time, and complete bank statements for the twelve (12) months preceding the effective date of closure;

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

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

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

8.01.2 No later than seven (7) days after the State Board votes to non-renew or revoke the charter, or the charter otherwise dissolves, the charter school or sponsoring entity shall send written notice of closure to:

8.01.2.1 The parents and legal guardians of all students;

8.01.2.2 All employees of the charter school;

8.01.2.3 All creditors of the charter school; and

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

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

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

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

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

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

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

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

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

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

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

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

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

8.02.2.1 If any state or federal funds remain in any bank account(s) titled in the name of the charter school or sponsoring entity, the Commissioner of Education or his or her designee shall notify the financial institution that the account(s) holds state or federal funds and shall direct that the account(s) be immediately frozen, subject to further direction by the Commissioner or his or her designee.

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

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

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

8.03 Distribution of Property

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

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

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

8.03.1.3 Personal property encumbered by a recorded security interest or lien and purchased or financed by the open-enrollment public charter school in whole or in part with state funds;

8.03.1.4 Personal property purchased or financed in whole or in part with state funds by an open-enrollment public charter school that never received federal funds and never directly benefited from a federal grant administered by the Department of Education; and

8.03.1.5 Any other personal property not distributed as provided by Sections 8.03.3 and 8.03.4 below.

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

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

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

8.04 Distribution of Funds

8.04.1 Upon the dissolution, non-renewal, or revocation of an open-enrollment public charter, the Commissioner of Education or his or her designee shall assert control over any funds deemed the property of the state under Section 8.02 above.

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

- 8.04.2.1 Domestic support obligations withheld from an employee's wages in compliance with a court order prior to the effective date of dissolution, non-renewal, or revocation;
- 8.04.2.2 Federal tax liens imposed by the Internal Revenue Code for taxes or payroll tax withholding owed;
- 8.04.2.3 Any state tax lien or certificate of indebtedness issued by the Arkansas Department of Finance and Administration for taxes or payroll tax withholding owed;
- 8.04.2.4 Any debt owed to the Arkansas Department of Education Child Nutrition Unit for penalties or reimbursement of overpayments;
- 8.04.2.5 Any debt owed to the Department of Education or other state agency for reimbursement of any other overpayment of federal funds;
- 8.04.2.6 Unpaid contributions to the Arkansas Teacher Retirement System accrued prior to the effective date of dissolution, non-renewal, or revocation;
- 8.04.2.7 Unpaid contributions to the Employee Benefits Division of the Arkansas Department of Finance & Administration accrued prior to the effective date of dissolution, non-renewal, or revocation; and
- 8.04.2.8 Unpaid employee wages accrued prior to the effective date of dissolution, non-renewal, or revocation in accordance with the school's salary schedule in effect as of the beginning of the current school year.
- 8.04.3 Any remaining funds deemed the property of the state under Section 8.02 above shall be deposited into the State Treasury to the credit of the Department of Education Public School Fund Account.

8.05 Distribution of Records

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

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

8.05.1.2 Student health / immunization records;

8.05.1.3 Attendance records;

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

8.05.1.5 All other student records.

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

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

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

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

8.05.2.2 Documentation of staff development hours; and

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

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

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

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

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

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

8.05.5.3 Lease agreements;

8.05.5.4 Accounting and bank records;

8.05.5.5 Payroll and tax records as required by federal law;

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

8.05.5.7 Any other document required by law to be maintained.