

Arkansas Department of Education
Rules Governing the Succeed Scholarship Program
January 2016

1.00 Authority

- 1.01 The Arkansas State Board of Education’s authority for promulgating these Rules is pursuant to Ark. Code Ann. §§ 6-11-105, 6-20-2301 *et seq.*, and 6-41-101 *et seq.*, and Act 1178 of 2015.
- 1.02 These Rules shall be known as the Arkansas Department of Education (ADE) Rules Governing the Succeed Scholarship Program.

2.00 Purpose

- 2.01 The purpose of these Rules is to establish guidelines for the implementation of the Succeed Scholarship Program in order to provide a scholarship to a private school of choice for students with disabilities that have an individualized education program in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 *et seq.*

3.00 Definitions

- 3.01 “Department” or “ADE” is the Arkansas Department of Education.
- 3.02 “Scholarship Payment” is a disbursement to the parent or legal guardian of a student participating in the Succeed Scholarship Program contingent upon appropriation and funding for the purpose of implementing the Succeed Scholarship Program.
- 3.03 “School District” is a geographic area with an elected board of directors that qualifies as a taxing unit for purposes of *ad valorem* property taxes under Title 26 of the Arkansas Code, and whose board conducts the daily affairs of public schools pursuant to the supervisory authority vested in it by the General Assembly and Title 6 of the Arkansas Code. For the purposes of these Rules, all references to “school district” include open enrollment public charter schools, except as waived by the State Board of Education pursuant to Ark. Code Ann. § 6-23-301 *et seq.*
- 3.04 “School Year” is the year beginning July 1 of one calendar year and ending June 30 of the next calendar year.

- 3.05 “Severely Disabled” is an individual that has an individualized education program in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 *et seq.*

4.00 Student Eligibility

- 4.01 A parent or legal guardian of a public school student with a disability may apply for a Succeed Scholarship to enroll his or her child in a private school if:
- 4.01.1 The student is currently enrolled in a public school district and has attended public school for at least the one (1) full school year immediately prior to the school year for which the scholarship payments would be disbursed;
 - 4.01.1.1 If the student is a dependent of an active duty member of any branch of the United States armed forces, Section 4.01.1 does not apply.
 - 4.01.2 The student has an individualized education program in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 *et seq.*; and
 - 4.01.3 The student has been accepted for admission into a private school that is eligible to participate in the Succeed Scholarship Program.
- 4.02 The parent or legal guardian shall:
- 4.02.1 Apply for the scholarship at least sixty-five (65) days before the date of the first scheduled scholarship payment for the private school to which the student has been accepted for admission; and
 - 4.02.2 Notify the superintendent of the student’s current and resident school district(s) within five (5) business days of submitting the application.
- 4.03 If a student is accepted for admission into a private school upon the availability of space, a parent or legal guardian shall notify the student’s current and resident school district(s) at least sixty (60) days before the student enrolls in the private school and thereby becomes eligible for scholarship payments for attending that private school.
- 4.04 If the parent or legal guardian of a student already participating in the program wishes to participate in the program in the upcoming school year and to enroll the student for the upcoming school year in a private school from the list of private schools eligible to participate in the program other than the participating private

school in which the student is currently enrolled, the parent or legal guardian shall follow the full application process contained in these Rules.

4.04.1 Sections 4.01.1, 4.02.2, and 4.03 of these Rules shall not apply to a student already participating in the program.

4.04.2 Section 4.01.2 shall be construed as requiring that the student had an individualized education program in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 *et seq.* upon the student's initial participation in the program.

4.04.3 Approval of an application under Section 4.04 is not guaranteed.

5.00 Private School Eligibility

5.01 A private school shall notify the Department of its intent to participate in the Succeed Scholarship Program.

5.01.1 The notice shall specify the grade levels and services that the private school has available for severely disabled students who are participating in the program.

5.01.2 The notice shall contain a complete description of the private school's disciplinary procedures, code(s) of conduct, and parental involvement requirements.

5.01.2.1 The Department shall maintain a record of the descriptions under Section 5.01.2 and make the record available on the Department's website.

5.02 The Department shall approve a private school as eligible to participate in the program if the private school:

5.02.1 Meets the accreditation requirements set by:

5.02.1.1 The State Board of Education;

5.02.1.2 The Arkansas Nonpublic School Accrediting Association or its successor; or

5.02.1.3 Another accrediting association recognized by the State Board of Education as providing services to severely disabled individuals.

- 5.02.1.4 The Arkansas Nonpublic School Accrediting Association and any other accrediting association(s) recognized by the State Board of Education under Section 5.02.1.3 shall submit to the Department, on an annual basis, a complete list of private schools currently accredited under the authority of its association.
- 5.02.1.5 The Arkansas Nonpublic School Accrediting Association and any other accrediting association(s) recognized by the State Board of Education under Section 5.02.1.3 shall notify the Department of loss of accreditation of any private school accredited under the authority of its association within thirty (30) days of the loss of accreditation.
- 5.02.2 Demonstrates fiscal soundness by having been in operation for one (1) school year or providing the Department with a statement by a certified public accountant confirming that:
 - 5.02.2.1 The private school is insured; and
 - 5.02.2.2 The private school has sufficient capital or credit to operate in the upcoming school year.
 - 5.02.2.3 In lieu of a statement, a surety bond or letter of credit for the amount equal to the scholarship funds for any quarter may be filed with the Department.
- 5.02.3 Complies with the antidiscrimination provisions of 42 U.S.C. § 2000d;
- 5.02.4 Meets state and local health and safety requirements and maintains an environment in which the health, safety, and welfare of students is not threatened;
- 5.02.5 Is academically accountable to the parent or legal guardian for meeting the educational needs of students;
- 5.02.6 Employs or contracts with only teachers who hold baccalaureate or higher degrees;
- 5.02.7 Employs or contracts with at least one (1) teacher who holds a current, valid standard license in special education issued by the State Board of Education;
 - 5.02.7.1 If, at any point following approval under Section 5.02, an eligible private school no longer employs or contracts with

at least one (1) teacher who holds a current, valid standard license in special education, the private school shall notify the parent(s) or legal guardian(s) of any student(s) participating in the program enrolled in or regularly attending the private school within five (5) days.

5.02.7.2 If, at any point following approval under Section 5.02, an eligible private school no longer employs or contracts with at least one (1) teacher who holds a current, valid standard license in special education, the private school shall notify the State Board of Education or the State Board of Education's designee within twenty (20) days.

5.02.8 Complies with all state laws and rules governing private schools; and

5.02.9 Adheres to the tenets of its published disciplinary procedures before an expulsion of a student participating in the program.

5.03 The Department shall maintain a list of private schools eligible to participate in the program and make the list available on the Department's website.

5.04 An eligible private school shall administer annually or make provisions for a student participating in the program to take a nationally recognized, norm-referenced test as established by the State Board of Education.

5.04.1 A student with an individualized education program that provides for an exemption to standardized testing is not required to take the test required under Section 5.04.

5.04.2 An eligible private school shall annually prepare a portfolio that provides information on a student's progress to the student's parent or legal guardian if a student is exempt from standardized testing as permitted under Section 5.04.1.

5.05 An eligible private school shall notify the State Board of Education or the State Board of Education's designee if any student participating in the program ceases to be enrolled in or regularly attend the private school for any reason.

5.06 The inability of a private school to meet the requirements under these Rules shall constitute a basis for the ineligibility of the private school to participate in the Succeed Scholarship Program as determined by the State Board of Education or the State Board of Education's designee.

5.07 Any instance of an owner, operator, superintendent, or principal of, or a person who has equivalent decision-making authority over, a private school participating in the Succeed Scholarship Program operating or having operated an educational

institution in Arkansas or in another state or jurisdiction in a manner contrary to the health, safety, or welfare of the public shall constitute a basis for the ineligibility of the private school to participate in the program as determined by the State Board of Education or the State Board of Education's designee.

6.00 Responsibilities of Participating Students

- 6.01 The parent or legal guardian of a student participating in the Succeed Scholarship Program shall:
 - 6.01.1 Select the private school from the list of private schools eligible to participate in the program that is maintained by the Department;
 - 6.01.2 Fully comply with the parental involvement requirements of the private school unless excused by the school for illness or other good cause;
 - 6.01.3 Sign a waiver that releases the State of Arkansas from any legal obligation to provide services or education to the student participating in the program except for funding provided for the program under these Rules;
 - 6.01.4 Sign a waiver that releases the student's resident school district from any legal obligation to provide services or education to the student participating in the program while the student is not enrolled in the student's resident school district as provided under these Rules;
 - 6.01.5 Notify the State Board of Education or the State Board of Education's designee if the student ceases to be enrolled in or regularly attend the private school for any reason.
 - 6.01.6 Correspond with the Department annually to inform the Department of intent to maintain enrollment in a private school eligible to participate in the program in order to continue the disbursement of scholarship payments.
- 6.02 A student participating in the program shall:
 - 6.02.1 Attend the private school throughout the school year unless excused by the school for illness or other good cause; and
 - 6.02.1.1 If the parent or legal guardian of a student participating in the program who has ceased to be enrolled in or regularly attend the private school wishes to enroll the student in another private school from the list of private schools

eligible to participate in the program prior to the end of the school year, the parent or legal guardian shall:

6.02.1.1.1 Provide proof to the Department that the student has been accepted for admission into another private school that is eligible to participate in the program; and

6.02.1.1.2 Request that the State Board of Education approve a reinstatement of the student's scholarship payments.

6.02.1.1.3 No more than one (1) such request may be made within the same school year.

6.02.2 Fully comply with the code of conduct for the private school.

6.03 The State Board of Education may terminate a scholarship if the student or the student's parent or legal guardian materially fails to comply with the responsibilities under these Rules.

7.00 Scholarship Payments – Funding

7.01 The maximum scholarship available under the Succeed Scholarship Program is the foundation funding amount for the current school year under Ark. Code Ann. § 6-20-2305.

7.02 The amount of the scholarship shall be the amount calculated under Section 7.01 or the amount of tuition and fees for the private school, whichever is less.

7.03 Scholarship payments shall be disbursed to the parent or legal guardian of a student participating in the Succeed Scholarship Program on a monthly basis by the Department or another state agency, person, firm, or corporation designated by the Department to administer and disburse funds.

7.03.1 If the Department designates a third party to administer funds, scholarship payments shall be by individual warrant made payable to the student's parent or legal guardian and delivered by the Department to the third party, and the parent or legal guardian shall restrictively endorse the warrant to the private school of the parent's or legal guardian's choice after which the third party shall deposit the payment into the account of the private school.

- 7.04 Beginning on July 1, 2015, the Department shall prepare a budget, including cost estimates and projections so that a separate appropriation can be made for the program for the 2016-2017 school year.
 - 7.04.1 For the 2016-2017 school year, the program shall be limited to 100 students.
- 7.05 The program shall be funded separately from the Public School Fund and other funds or appropriations designated for public schools.
- 7.06 The program shall not be funded with county, city, or school district tax revenues.

8.00 Rules and Duties

- 8.01 The State Board of Education shall adopt rules and develop notices and other documentation necessary to administer the Succeed Scholarship Program that are in the best interest of students.
- 8.02 The State Board of Education shall not:
 - 8.02.1 Become a party to a contract between a participating private school and the parent or legal guardian of a student participating in the program; or
 - 8.02.2 Make payments to the parent or legal guardian of a student after the State Board of Education is notified from either a participating school or a student's parent or legal guardian that the student is no longer enrolled in or attending a participating private school.
 - 8.02.3 Make payments to the parent or legal guardian of a student enrolled in or attending a private school that the State Board of Education has determined is ineligible to participate in the program.

9.00 Autonomy of Participating Private Schools

- 9.01 A private school that participates in the Succeed Scholarship Program is not considered an agent or instrumentality of the State of Arkansas or a school district.
- 9.02 The curriculum and education plan for a student with a disability attending a private school is not subject to the regulatory authority of the State Board of Education.

9.03 As a condition of continued participation in the program, each participating private school shall:

9.03.1 Certify under oath, on a semiannual basis, that any student(s) participating in the program is/are and has/have been enrolled and attending the participating private school except for excused absences.