

Red=Waivers not previously requested, need additional discussion, or have remaining issues
Green=Waivers previously granted, no remaining issues
Information provided by Applicant is in italics.

Arkansas Virtual Academy 2019 Renewal Application

Expiring Waivers

All waivers, other than those listed below, are fine and there are no legal comments.

Board of Directors

Ark. Code Ann. § 6-13-611

Ark. Code Ann. § 6-13-619

Ark. Code Ann. § 6-13-619(a)(1)(A)

Ark. Code Ann. § 6-13-619(c)(1)(A)

Legal Comments: Applicant needs a waiver of Ark. Code Ann. § 6-3-612(c) to effectuate the waiver of Ark. Code Ann. § 6-13-611. Applicant has listed both Ark. Code Ann. § 6-13-619 and specific subsections of the law. Does the Applicant need a waiver of the entire statute, or does the Applicant need a waiver of only the two subsections? Also, the law was amended since the waiver was granted and now allows virtual attendance. Does the Applicant still need the waiver?

Applicant Response:

- 1.) Board of Directors: Applicant wishes to amend its waiver to remove the waiver of all of Ark. Code Ann. §6-13-619, retain its waiver of Ark. Code Ann. §6-13-619 (a) (1) (A) and add waivers of Ark. Code Ann. §§6-13-612 (c) and 6-13-619 (c)-(d). The rationale behind requesting/continuing the waiver of §6-13-619(a) (1) (A) is that ARVA only holds quarterly school board meetings. The rationale behind requesting/continuing the waiver of §6-13-619 (c)- (d) is that ARVA's school board members are located throughout Arkansas and it is frequently difficult for members to appear in-person, and the frequency with which this need occurs is greater than would be permitted under a virtual attendance policy.

Legal Comments: None.

Food Service

Legal Comments: Applicant needs a waiver of Standard 3-D.1

Applicant Response:

Food Service: Applicant wishes to add a waiver of Section 3-D.1 of the ADE Standards for Accreditation Rules.

Red=Waivers not previously requested, need additional discussion, or have remaining issues
Green=Waivers previously granted, no remaining issues
Information provided by Applicant is in italics.

Legal Comments: None.

Report Cards

Ark. Code Ann. § 6-15-903(a)(2)

Legal Comments: What is the rationale behind this waiver?

Applicant Response:

Report Cards: The rationale behind this waiver is that ARVA wishes, due to its virtual method of instruction and student/parent contact, to continue to email report cards as opposed to mailing them or sending them home with the student.

Legal Comments: None.

Personnel Policies

Ark. Code Ann. § 6-17-201 et seq.

Ark. Code Ann. § 6-17-203

Ark. Code Ann. § 6-17-208

Ark. Code Ann. § 6-17-2301 et seq.

Legal Comments: Does the Applicant have written personnel policies that are distributed to its staff? If yes, Applicant does not need a waiver of the entire subchapter, and should review Ark. Code Ann. § 6-17-201 et seq. to determine which sections of the subchapter it needs to waive. Further, Applicant has listed the entire subchapter (Ark. Code Ann. § 6-17-201 et seq.), but then listed specific sections. Applicant should clarify what exactly it needs waived. Applicant needs to do the same for the waiver of Ark. Code Ann. § 6-17-2301 et seq.

Applicant Response:

Personnel Policies: Applicant wishes to amend its waiver to waivers of Ark. Code Ann. §§6-17-201 (c), 203, 204, 205, 208, and 209-211, as well as Ark. Code Ann. §§6-17-2301 (b)-(c), 2302, 2303, 2304 and 2305.

Legal Comments: What is the rationale behind the waiver of Ark. Code Ann. §§ 6-17-208 and 210? Does Academics Plus have a grievance procedure for employees?

Red=Waivers not previously requested, need additional discussion, or have remaining issues
Green=Waivers previously granted, no remaining issues
Information provided by Applicant is in italics.

Attendance

Ark. Code Ann. § 6-18-209(b)

Ark. Code Ann. § 6-18-213

Legal Comments: What is the rationale behind this waiver request?

Applicant Response:

Attendance: The rationale behind the waiver of Ark. Code Ann. §6-18-209 (b) is that ARVA, due to its virtual method of instruction, does not have the ability to adopt a plan which contains the use of alternative classrooms and in-school suspensions. The rationale behind the waiver of Ark. Code Ann. §6-18-213 is that ARVA does not do a class-by-class attendance count, but pulls aggregate, daily attendance counts from its system.

Legal Comments: Ark. Code Ann. § 6-18-209(b) states that the school shall develop strategies for promoting maximum student attendance, including, *but not limited to*, the use of alternative classroom and in-school suspensions in lieu of suspension from school. Does ARVA have the ability to adopt a plan that contains strategies for promoting maximum student attendance by other means?

Flexible Schedule

Ark. Code Ann. § 6-18-210

Legal Comments: This law has been repealed, therefore no waiver is necessary.

Applicant Response:

Flexible Schedule: Applicant rescinds this waiver, as the applicable law has been repealed.

Legal Comments: None.

Red=Waivers not previously requested, need additional discussion, or have remaining issues

Green=Waivers previously granted, no remaining issues

Information provided by Applicant is in italics.

Discipline

Ark. Code Ann. §6-18-511

ADE Rules Governing Guidelines for the Development, Review, and Revision of School District Student Discipline and School Safety Policies

Legal Comments: What is the rationale behind this waiver request? The law says a teacher *may* remove a students, but does not place any requirements on teachers. After reviewing the Applicant's statutory waivers, Applicant only needs a waiver of Section 4.10 and 5.01.4 of the above-referenced Rules. Applicant does not need a waiver of the entire Rule.

Applicant Response:

Discipline: The rationale behind the waiver of Ark. Code Ann. §6-18-511 is the Applicant's inability to comply with the statute, due to its virtual method of instruction. Applicant wishes to amend its waiver of the entire ADE Rules Governing Guidelines for the Development, Review, and Revision of School District Discipline and School Safety Policies to Sections 4.10 and 5.01.4 of the Rules.

Legal Comments: The law says a teacher *may* remove a students, but does not place any requirements on teachers. ARVA is able to comply with this law as there is no mandate, only permissive language, therefore, no waiver is necessary.

Instructional Materials

Ark. Code Ann. § 6-21-406

ADE Rules Governing Instructional Materials

Legal Comments: Ark. Code Ann. § 6-21-406 is a requirement on publishers, not a requirement on a school or district, therefore no waiver is necessary. After a review of the Applicant's statutory waivers, Applicant only needs a waiver of Section 5.01 of the ADE Rules referenced above. Applicant does not need a waiver of the entire Rule.

Applicant Response:

Instructional Materials: Applicant wishes to amend its waiver by rescinding its waivers of Ark. Code Ann. §6-21-406 and the entire ADE Rules Governing Instructional Materials, to a waiver of Section 5.01 of the Instructional Materials Rules.

Legal Comments: None

Red=Waivers not previously requested, need additional discussion, or have remaining issues

Green=Waivers previously granted, no remaining issues

Information provided by Applicant is in italics.

Library Media

Ark. Code Ann. § 6-25-101 et seq. 2-D.1, Standards

Legal Comments: No waiver of Ark. Code Ann. § 6-25-101 or 102 is necessary. What is the rationale behind the request to waive Ark. Code Ann. § 6-25-105 and 106? What is the rationale behind the waiver of 2-D.1 in the Standards?

Applicant Response:

Library Media: Applicant wishes to amend its waiver of Ark. Code Ann. §6-25-101 et seq. to a waiver of Ark. Code Ann. §6-25-103 through 106. The rationale behind the waiver of Ark. Code Ann. §§6-25-105 and 106 is that the Applicant, owing to its virtual method of instruction, does not maintain media centers in the traditional sense. ARVA does maintain sufficient media resources to serve the education needs of its students and families. ARVA's rationale for the waiver of Section 2-D.1 of the ADE Standards for Accreditation Rules is that, as a completely virtual school, it does not provide "print" media resources to its students.

Legal Comments: No rationale has been provided for waiver of Ark. Code Ann. §§ 6-25-105 or 106. Does ARVA have a retention policy, or a policy for the selection and removal of materials (including virtual materials)? Does the district have a policy for addressing challenged materials? There's nothing in the statutes listed that requires an on-site traditional media center, other than the use of the phrase "media center" which is not defined to be restrictive. Further, 2-D.1 of the Standards only requires the District to budget and expend sufficient resources to maintain an *appropriate balance* of print, non-print, and electronic media that is adequate in quality in quantity to meet the academics standards for all students. There's nothing in the Standards that mandates a traditional media center, nor mandates that a district have all three types of media (just an appropriate balance to meet the needs of its students). In the event that a student wants to read a print book or material, how does ARVA meet that student's need?

Gifted and Talented

Ark. Code Ann. § 6-42-101 et seq.

Legal Comments: The only section of this subchapter that contains a requirement on a school or school district is Ark. Code Ann. § 6-42-109. No waiver is necessary of any of the other sections of the subchapter.

Applicant Response:

Gifted and Talented: Applicant wishes to amend its waiver of Ark. Code Ann. §6-42-101 et seq. to Ark. Code Ann. §6-42-109

Red=Waivers not previously requested, need additional discussion, or have remaining issues
Green=Waivers previously granted, no remaining issues
Information provided by Applicant is in italics.

Legal Comments: None.

Alternative Learning Environment

Ark. Code Ann. § 6-48-101 et seq.

Legal Comments: Very similar to my other comments, only Ark. Code Ann. § 6-48-102 and 103 have requirements that impact schools and school districts. No waiver of the other sections is needed.

Applicant Response:

Alternative Learning Environment: Applicant wishes to amend its waiver of Ark. Code Ann. §6-48-101 et seq. to Ark. Code Ann. §§6-48-102 and 103.

Legal Comments: None.

Professional Development

Ark. Code Ann. § 6-5-405(b)(1)

Legal Comments: This law was repealed, therefore no waiver is necessary.

Applicant Response:

Professional Development: Applicant wishes to rescind this waiver, as the applicable law has been repealed.

Legal Comments: None.

Guidance Counseling

2-C.2, Standards

Legal Comments: What is the rationale behind waiving the requirement to provide developmentally appropriate guidance programming to aid students in educational, personal/social, and career development? Further, it seems that if you are not meeting 2-C.2 in the Standards, the Applicant would also need a waiver of 2-C.1.

Applicant Response:

Guidance Counseling: Applicant wishes to rescind its waiver for Section 2-C.2 of the ADE Standards for Accreditation Rules.

Red=Waivers not previously requested, need additional discussion, or have remaining issues
Green=Waivers previously granted, no remaining issues
Information provided by Applicant is in italics.

Legal Comments: None.

Defibrillators and CPR

ADE Rules Governing Automated External Defibrillator Devices and CPR

Legal Comments: Does Applicant have an administrative building? If yes, does the Applicant have a defibrillator at the building?

Applicant Response:

Defibrillators and CPR: Applicant wishes to maintain its waiver, as its administrative offices do not house any students or student activities.

Legal Comments: Does the administrative building have a defibrillator? Applicant would need a waiver of Ark. Code Ann. § 6-10-122 to effectuate this waiver.

Distance Learning

ADE Rules Governing Distance and Digital Learning

Legal Comments: What is the rationale behind this waiver?

Applicant Response:

Distance Learning: Applicant wishes to maintain only a portion of the waiver for section 10.00. This section outlines the need for all digital learning courses and providers to go through approval processes. Since the entire student experience at ARVA is digital, the process for approvals would be cumbersome.

Legal Comments: What process does ARVA have to ensure that all digital learning courses and providers are nonsectarian and nondiscriminatory in its programs, have successful experience in furnishing digital learning courses, and provide services that meet or exceed the minimum curriculum standards?

Red=Waivers not previously requested, need additional discussion, or have remaining issues

Green=Waivers previously granted, no remaining issues

Information provided by Applicant is in italics.

Teacher Licensure

ADE Rules Governing Educator Licensure

Legal Comments: Does the Applicant have licensed teachers teaching outside of their licensure area? If yes, only a waiver of Section 7 is needed. If no, no waiver of these Rules is needed.

Applicant Response:

Teacher Licensure: Applicant wishes to amend its waiver of the entire ADE Rules Governing Educator Licensure to a waiver of Section 7. of the Rules.

Legal Comments: None.

Mandatory Attendance

ADE Rules Governing Mandatory Attendance Requirements for Students in Grades 9-12

Legal Comments: These Rules have been repealed, therefore no waiver is necessary.

Applicant Response:

Mandatory Attendance: Applicant wishes to rescind this waiver, as the applicable Rules have been repealed.

Legal Comments: None.

Nutrition and Physical Activity Requirements

Legal Comments: What is the rationale behind this waiver? This is a very broad waiver request and some of these requirements are federal requirements that cannot be waived. Please provide a rationale.

Applicant Response:

Nutrition and Physical Activity Requirements: Applicant wishes to amend its waiver to a waiver of Sections 5.02.1 and 7.00-11.00 of the ADE Rules Governing Nutrition and Physical Activity Standards. The rationale behind this waiver is the inapplicability of ARVA to comply with the cited sections, which concern food products and standards and physical activity, due to its virtual method of instruction.

Red=Waivers not previously requested, need additional discussion, or have remaining issues

Green=Waivers previously granted, no remaining issues

Information provided by Applicant is in italics.

Legal Comments: Section 5.02.1 refers to in-school access to vending machines. What is the rationale for this waiver if students are not attending school in an ARVA campus? How is ARVA meeting the curriculum requirements for K-12 physical activity, including the graduation requirements? CAB/SBE cannot waive requirements of the Smart Snacks USDA program, as those are federal requirements (most of Sections 8-9), so even if a waiver is granted under the DESE Rules, ARVA Is still responsible for meeting the federal requirements to the extent they apply.

Expenditure Requirements

ADE Rules Governing Expenditure Requirements

Legal Comments: This Rule does not exist, therefore no waiver is necessary.

Applicant Response:

Expenditure Requirements: Applicant wishes to rescind its waiver of the ADE Rules Governing Expenditure Requirements, as the Rules no longer exist.

Legal Comments: None.

New Waivers

1. Recess

Ark. Code Ann. § 6-16-102(a)(5)

Rationale: ARVA requests a waiver from ACT 641 to align with the currently held waiver from ACA 6-16-102 providing ARVA students with a flexible school day. Because students are learning virtually at home, the requirement for a 40-minute recess is at the discernment of the parent. ARVA requests the waiver as the daily schedule is learning coach driven outside of ARVA held synchronous learning. ARVA will educate all parents that a 40-minute recess should be considered and scheduled as part of their learning day. Additionally, Act 641 creates provision for waiver under E.i.a.2.b, stating that a school approved by the department to operate as a virtual school may seek a waiver for the requirements.

Legal Comments: None.

Desegregation Analysis: Fully responsive.