

**A.C.A. § 6-20-1901**

Current through all legislation of the 2021 Regular Session (Acts 1-1112), including corrections and edits by the Arkansas Code Revision Commission

***AR - Arkansas Code Annotated > Title 6 Education > Subtitle 2. Elementary and Secondary Education Generally > Chapter 20 Finances > Subchapter 19 — Arkansas Fiscal Assessment and Accountability Program***

**6-20-1901. Title.**

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This subchapter shall be known as and may be cited as the "Arkansas Fiscal Assessment and Accountability Program".

**A.C.A. § 6-20-1902**

Current through all legislation of the 2021 Regular Session (Acts 1-1112), including corrections and edits by the Arkansas Code Revision Commission

***AR - Arkansas Code Annotated > Title 6 Education > Subtitle 2. Elementary and Secondary Education Generally > Chapter 20 Finances > Subchapter 19 — Arkansas Fiscal Assessment and Accountability Program***

**6-20-1902. Purpose.**

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The purpose of this subchapter shall be to improve Arkansas public school districts' financial practices and use of resources by establishing a:

- (1) System by which the Division of Elementary and Secondary Education shall review the financial management practices of public school districts, including without limitation identifying best financial management practices;
- (2) Program by which the division shall identify, assess, and address public school districts in any phase of fiscal distress that includes without limitation identification of early indicators of fiscal distress and early intervention in public school districts that experience early indicators of fiscal distress; and
- (3) System for providing continuous fiscal support and monitoring to public school districts that have been returned to local control after being identified as in fiscal distress.

## A.C.A. § 6-20-1903

Current through all legislation of the 2021 Regular Session (Acts 1-1112), including corrections and edits by the Arkansas Code Revision Commission

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### **6-20-1903. Definitions.**

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As used in this subchapter:

(1) "Annexation" means the joining of an affected school district or part of the school district with a receiving district pursuant to § 6-13-1401;

(2) "Consolidation" means the joining of two (2) or more school districts or parts of the districts to create a new single school district pursuant to § 6-13-1401;

(3) [Repealed.]

(4) "Fiscal distress status" means a public school district determined by the Division of Elementary and Secondary Education and classified by the State Board of Education as being placed in fiscal distress status pursuant to this subchapter;

(5) "Fiscal integrity" means to comply with financial management, accounting, auditing, and reporting procedures and facilities management procedures as required by state laws and rules and federal laws and regulations in a forthright and timely manner;

(6) "Reconstitution" means the reorganization of the administrative unit or the governing school district board of directors of a school district, including, but not limited to, the replacement or removal of a current superintendent or the removal or replacement of a current school district board of directors, or both;

(7) "School district" means a public school district created or established pursuant to this title; and

(8) "State board" means the State Board of Education.

## A.C.A. § 6-20-1904

Current through all legislation of the 2021 Regular Session (Acts 1-1112), including corrections and edits by the  
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### **6-20-1904. Indicators of fiscal distress.**

(a) A school district meeting any of the following criteria may be identified by the Division of Elementary and Secondary Education to be a school district in fiscal distress upon final approval by the State Board of Education:

(1)

(A) A declining balance determined to jeopardize the fiscal integrity of a school district.

(B) However, capital outlay expenditures for academic facilities from a school district balance shall not be used to put the school district in fiscal distress;

(2) An act or violation determined to jeopardize the fiscal integrity of a school district, including without limitation:

(A) Material failure to properly maintain school facilities;

(B) Material violation of local, state, or federal fire, health, or safety code provisions or law;

(C) Material violation of local, state, or federal construction code provisions or law;

(D) Material state or federal audit exceptions or violations;

(E) Material failure to provide timely and accurate legally required financial reports to the division, Arkansas Legislative Audit, the General Assembly, or the Internal Revenue Service;

(F) Insufficient funds to cover payroll, salary, employment benefits, or legal tax obligations;

(G) Material failure to meet legally binding minimum teacher salary schedule obligations;

(H) Material failure to comply with state law governing purchasing or bid requirements;

(I) Material default on any school district debt obligation;

(J) Material discrepancies between budgeted and actual school district expenditures;

(K) Material failure to comply with audit requirements;

(L) Material failure to comply with any provision of the Arkansas Code that specifically places a school district in fiscal distress based on noncompliance;

(M) Material failure to comply with § 6-20-1913 or division rules concerning the minimum qualifications for a general business manager; or

(N) Material failure to comply with reporting, debt approval, or other requirements placed on a public school district that has been returned to local control under § 6-20-1912; or

(3) Any other fiscal condition of a school district deemed to have a detrimental negative impact on the continuation of educational services by that school district.

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**(b)**

**(1)**By November 1 of each year, the division shall report to the superintendent of a public school district if the division is aware that the public school district has experienced two (2) or more indicators of fiscal distress, as described in subsection (a) of this section or in division rules, in one (1) school year that the division deems to be at a nonmaterial level but that without intervention could place the public school district in fiscal distress.

**(2)**By November 1 of each year, the superintendent of a public school district shall report to the division if the superintendent is aware the public school district has experienced two (2) or more indicators of fiscal distress, as described in subsection (a) of this section or in division rules, in one (1) school year that the superintendent deems to be at a nonmaterial level but that without intervention could place the public school district in fiscal distress.

**(3)**

**(A)**The division and the superintendent shall review all data related to the nonmaterial indicators of fiscal distress.

**(B)**

**(i)**Within thirty (30) days of the division's determination that the public school district may be experiencing fiscal distress at a nonmaterial level, the division shall provide a notice to the public school district's superintendent and board of directors that:

**(a)**

Describes the nonmaterial indicators of fiscal distress that could jeopardize the fiscal integrity of the public school district if not addressed; and

**(b)**

Identifies the support available from the division to address each nonmaterial indicator of fiscal distress.

**(ii)**The board of directors of the public school district shall place on the agenda for the next regularly scheduled meeting of the board of directors of the public school district a discussion of the notice of nonmaterial indicators of fiscal distress.

**(4)**

**(A)**If a public school district is determined to be experiencing fiscal distress at a nonmaterial level under this subsection, the public school district shall:

**(i)**Comply with all requirements established by the state board in rules, including without limitation review of the public school district's budget, reporting, and the hiring and termination of staff; and

**(ii)**Not incur any debt without the prior written approval of the division.

**(B)**The division may request that Arkansas Legislative Audit conduct an annual audit of a public school district that is determined to be experiencing fiscal distress at a nonmaterial level under this subsection.

## A.C.A. § 6-20-1905

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### **6-20-1905. Notification and appeal.**

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(a)

(1)

(A) The Division of Elementary and Secondary Education shall provide written notice, via certified mail, return receipt requested, to the president of the board of directors and the superintendent of each public school district identified as being in fiscal distress.

(B) The division shall provide the notice required under this subdivision (a)(1) on or before June 30 of each year.

(2)

(A) At any time after June 30, the division may identify a public school district as being in fiscal distress if the division discovers that a fiscal condition of a public school district negatively impacts the continuation of educational services by the public school district.

(B) The division immediately shall provide the same notice required under subdivision (a)(1)(A) of this section to the public school district identified under this subdivision (a)(2).

(b) Any school district identified in fiscal distress status may appeal to the State Board of Education by filing a written appeal with the office of the Commissioner of Elementary and Secondary Education by certified mail, return receipt requested, within thirty (30) days of receipt of notice of identified fiscal distress status from the division.

(c) The state board shall hear the appeal within sixty (60) days of receipt of the written notice of appeal from the school district.

(d) The written appeal shall state in clear terms the reason why the school district should not be classified as in fiscal distress.

(e) Notwithstanding any appeal rights in this subchapter, no appeal shall stay the division's authority to take action to protect the fiscal integrity of any school district identified as in fiscal distress.

(f) The decision of the state board shall be a final order, and there is no further right of appeal except that the school district may appeal to Pulaski County Circuit Court pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

**A.C.A. § 6-20-1906**

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**6-20-1906. Classification of fiscal distress status.**

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(a) Those school districts identified by the Division of Elementary and Secondary Education as being in fiscal distress shall be classified as school districts in fiscal distress upon final determination by the State Board of Education.

(b) Any school district classified as in fiscal distress shall be required to publish at least one (1) time for two (2) consecutive weeks in a newspaper of general circulation in the school district the school district's classification as a school district in fiscal distress and the reasons why the school district was classified as being in fiscal distress.

(c) The provisions of subsections (a) and (b) of this section are effective after the school district's appeal rights have been exhausted.

**A.C.A. § 6-20-1907**

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**6-20-1907. Debt issuance.**

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No school district identified in fiscal distress may incur any debt without the prior written approval of the  
Division of Elementary and Secondary Education.



**A.C.A. § 6-20-1908**

Current through all legislation of the 2021 Regular Session (Acts 1-1112), including corrections and edits by the  
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**6-20-1908. Fiscal distress plan.**

(a) Those school districts identified by the Division of Elementary and Secondary Education as being in fiscal distress shall file with the division within ten (10) days after the final classification by the State Board of Education a written fiscal distress improvement plan to address any area in which the school district is experiencing fiscal distress as identified by the division.

(b) Each school district shall seek and obtain approval of its plan from the division and shall describe how the school district will remedy those areas in which the school district is experiencing fiscal distress and shall establish the time period by which the school district will remedy all criteria which placed the school district in fiscal distress status.

(c) A public school district in fiscal distress may only petition the state board for removal from fiscal distress status after the division has certified in writing that the public school district has corrected all criteria for being classified as in fiscal distress, has not experienced any additional indicators of fiscal distress, and has complied with all division recommendations and requirements for removal from fiscal distress status.

(d) Except under § 6-20-1910(e), a school district shall not be allowed to remain in fiscal distress status for more than five (5) consecutive school years from the date that the school district was classified as being in fiscal distress status.

(e) Any school district classified as being in fiscal distress status shall be required to receive on-site technical evaluation and assistance from the division.

(f)

(1) The division shall evaluate and make written recommendations to the district superintendent regarding staffing of the school district and fiscal practices of the school district.

(2) The written recommendations of the division shall be binding on the school district, the superintendent, and the school district board of directors.

(g) Every six (6) months, the division shall submit a written evaluation on the status of each school district in fiscal distress to the state board.

(h)

(1) The division may petition the state board at any time for the consolidation, annexation, or reconstitution of a school district in fiscal distress or take other appropriate action as allowed by this subchapter in order to secure and protect the best interest of the educational resources of the state or to provide for the best interests of students in the school district.

(2) The state board may approve the petition or take other appropriate action as allowed by this subchapter.

(i) Except under § 6-20-1910(e), the state board shall consolidate, annex, or reconstitute any school district that fails to remove itself from the classification of a school district in fiscal distress within five (5) consecutive school

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years of classification of fiscal distress status unless the state board, at its discretion, issues a written finding supported by a majority of the state board, explaining in detail that the school district could not remove itself from fiscal distress due to impossibility caused by external forces beyond the school district's control.

**Authority.**

Lori Freno

**A.C.A. § 6-20-1909**

Current through all legislation of the 2021 Regular Session (Acts 1-1112), including corrections and edits by the  
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**AR - Arkansas Code Annotated > Title 6 Education > Subtitle 2. Elementary and Secondary Education Generally > Chapter 20 Finances > Subchapter 19 — Arkansas Fiscal Assessment and Accountability Program**

**6-20-1909. Division fiscal distress actions.**

(a) In addressing public school districts in fiscal distress, the Commissioner of Elementary and Secondary Education may:

(1) Remove permanently, reassign, or suspend on a temporary basis the superintendent of the public school district and:

(A) Appoint an individual in place of the superintendent to administratively operate the public school district under the supervision and approval of the commissioner;

(B) Compensate nondivision agents operating the public school district from public school district funding; and

(C) Authorize an individual appointed under subdivision (a)(1)(A) of this section to remove, replace, reassign, or suspend public school district personnel in accordance with state law;

(2) Suspend or remove some or all of the current board of directors and call for the election of a new board of directors for the public school district, in which case the public school district shall reimburse the county board of election commissioners for election costs as otherwise recognized by law;

(3)

(A) Suspend on a temporary basis some or all of the powers and duties granted to the current public school district board of directors under § 6-13-620 or any other law but allow the public school district board of directors to continue to operate under the direction and approval of the commissioner.

(B) The State Board of Education shall define the powers and duties of the public school district board of directors while the public school district board of directors is operating under the direction and approval of the commissioner under subdivision (a)(3)(A) of this section.

(C) The public school district board of directors shall act in an advisory capacity to the commissioner regarding all powers and duties granted under § 6-13-620 that are not defined under subdivision (a)(3)(B) of this section;

(4) Require the public school district to operate without a board of directors under the supervision of the local superintendent or an individual or panel appointed by the commissioner;

(5) Waive the application of Arkansas law or the corresponding State Board of Education rules, with the exception of:

(A) The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et seq.;

(B) The Public School Employee Fair Hearing Act, § 6-17-1701 et seq.;

(C) Special education programs as provided in this title;

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- (D)** Criminal background checks for employees as provided in this title; and
- (E)** Health and safety codes as established by the State Board of Education and local governmental entities;
- (6)** Petition the State Board of Education for the annexation, consolidation, or reconstitution of the public school district;
- (7)** In the absence of a public school district board of directors, assume all authority of the board of directors as designated by the State Board of Education as may be necessary for the day-to-day governance of the public school district;
- (8)** Require reassignment of some or all of the administrative, instructional, or support staff of a public school district;
- (9)** Require reorganization, closure, or dissolution of one (1) or more of the public schools within the public school district;
- (10)**
  - (A)** Return the administration of the public school district to the former board of directors or to a newly elected board of directors if:
    - (i)** The Division of Elementary and Secondary Education certifies in writing to the State Board of Education and to the public school district that the public school district has corrected all issues that caused the classification of fiscal distress and the public school district has not experienced any additional indicators of fiscal distress; and
    - (ii)** The State Board of Education determines the public school district has corrected all issues that caused the classification of fiscal distress.
  - (B)** If the commissioner calls for an election of a new public school district board of directors, the public school district shall reimburse the county board of election commissioners for election costs as otherwise required by law;
- (11)** Otherwise reconstitute the public school district; or
- (12)** Take any other action allowed by law that is deemed necessary to assist a public school district in removing the classification of fiscal distress.
- (b)** The division may impose various reporting requirements on the school district.
- (c)** The division shall monitor the fiscal operations and accounts of the school district.
- (d)** The division shall require school district staff and employees to obtain fiscal instruction or training in areas of fiscal concern for the school district.

## A.C.A. § 6-20-1913

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**AR - Arkansas Code Annotated > Title 6 Education > Subtitle 2. Elementary and Secondary Education Generally > Chapter 20 Finances > Subchapter 19 — Arkansas Fiscal Assessment and Accountability Program**

### **6-20-1913. General business manager — Definition.**

(a) As used in this subchapter, "general business manager" means a chief financial officer or business manager, however the position is titled, who:

- (1) Is an employee of a public school district or has contracted to perform financial services;
- (2) Is responsible for the fiscal operations of a public school district; and
- (3) Performs duties under the direction of a superintendent of a public school district.

(b)

- (1) A general business manager for a public school district shall meet the minimum qualifications established by Division of Elementary and Secondary Education rules.
- (2) These division rules shall ensure minimum qualifications that support the implementation of best financial management practices for public school districts.

(c) A general business manager who was hired before July 31, 2007, is exempt from subsection (b) of this section.

### **History**

Acts 2019, No. 929, § 8; 2021, No. 774, § 6.

Annotations

### **Notes**

### **Amendments.**

The 2021 amendment added (a)(1) and redesignated the remaining subdivisions accordingly.

## A.C.A. § 6-20-1910

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**AR - Arkansas Code Annotated > Title 6 Education > Subtitle 2. Elementary and Secondary Education Generally > Chapter 20 Finances > Subchapter 19 — Arkansas Fiscal Assessment and Accountability Program**

### **6-20-1910. State board actions.**

(a) After a public hearing, the State Board of Education shall consolidate, annex, or reconstitute the school district in fiscal distress to another school district or school districts upon a majority vote of a quorum of the members of the state board as permitted or required by this subchapter.

(b) The state board has exclusive jurisdiction to determine the boundary lines of the receiving or resulting school district and to allocate assets and liabilities of the school district.

(c) The decision of the state board shall be final with no further right of appeal except that a school district may appeal to Pulaski County Circuit Court pursuant to the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(d) [Repealed.]

(e)

(1) If, by the end of the fifth school year following the school district's classification of fiscal distress status, the school district in fiscal distress has not corrected all issues that caused the classification of fiscal distress, the state board, after a public hearing, shall consolidate, annex, or reconstitute the school district under this section.

(2) The state board may grant additional time for a public school or school district to remove itself from fiscal distress by issuing a written finding supported by a majority of the state board explaining in detail that the public school or school district could not remove itself from fiscal distress during the relevant time period due to impossibility caused by external forces beyond the control of the public school or school district.

(f) Nothing in this section shall be construed to prevent the Division of Elementary and Secondary Education or the state board from taking any of the actions listed in § 6-20-1909 or this section at any time to address a school district in fiscal distress.

### **History**

**A.C.A. § 6-20-1911**

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**6-20-1911. Rules.**

- (a) The Division of Elementary and Secondary Education shall promulgate rules as necessary to identify, evaluate, assist, and address school districts in fiscal distress.
- (b) The division may promulgate rules as necessary to administer this subchapter.

**A.C.A. § 6-20-1912**

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**6-20-1912. Fiscal support and monitoring.**

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(a) When a public school district is returned to local control or removed from fiscal distress status, the Division of Elementary and Secondary Education:

(1) Shall monitor the fiscal operations and accounts of the public school district for a period of three (3) years;

(2) Shall provide support to the public school district regarding maintaining fiscal integrity and best financial management practices; and

(3) May impose various reporting requirements on the public school district.

(b) A public school district that is returned to local control shall:

(1) Comply with all monitoring and reporting requirements established by the division and the State Board of Education, including without limitation review of the public school district's budget and approval for staffing;

(2) Not incur any debt without prior written approval of the division; and

(3) Use Arkansas Legislative Audit to conduct an annual audit.



**A.C.A. § 6-20-1913**

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**6-20-1913. General business manager — Definition.**

(a) As used in this subchapter, "general business manager" means a chief financial officer or business manager, however the position is titled, who:

- (1) Is an employee of a public school district or has contracted to perform financial services;
- (2) Is responsible for the fiscal operations of a public school district; and
- (3) Performs duties under the direction of a superintendent of a public school district.

(b)

- (1) A general business manager for a public school district shall meet the minimum qualifications established by Division of Elementary and Secondary Education rules.
- (2) These division rules shall ensure minimum qualifications that support the implementation of best financial management practices for public school districts.

(c) A general business manager who was hired before July 31, 2007, is exempt from subsection (b) of this section.

## A.C.A. § 6-20-1914

Current through all legislation of the 2021 Regular Session (Acts 1-1112), including corrections and edits by the Arkansas Code Revision Commission

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### **6-20-1914. Review of financial management practices.**

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(a) The Division of Elementary and Secondary Education shall implement a system for reviewing the financial management practices of public school districts to determine the support that is needed by public school districts.

(b) The system established under subsection (a) of this section shall address without limitation a public school district's:

- (1) Use of resources;
- (2) Financial accountability; and
- (3) Personnel systems and benefits management.

### **History**

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Acts 2019, No. 929, § 8.

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