

ARKANSAS STATE BOARD OF EDUCATION
OPERATING PROCEDURES
~~July 1, 2018~~ _____

These Operating Procedures are formally adopted by the State Board of Education. Such Rules relate to the orderly transaction of business in meetings and to the duties of officers that serve on the Board. The object of these procedures is to facilitate the smooth functioning of the Board and to provide a firm basis for resolving questions about procedure. Should a situation arise during the course of a regular or special meeting where no procedure is written, Robert's Rules of Order may be used as guidance. Amendments to these procedures may be made by a three-fourths vote of the Board.

Membership

Board membership is prescribed by state law. Ark Code Ann. §6-11-101. The Board is composed of nine members. Members are appointed for a seven (7) year term by the Governor, subject to confirmation of the Senate.

Whenever a vacancy occurs in the membership of the Board, the Governor will appoint a successor who will serve the remainder of the unexpired term of the member that he or she succeeded.

Orientation

Each newly appointed Board member will attend a Board member orientation session(s) organized by the Department of Education. The purpose of the orientation process is to help new Board Members gain an understanding of the role and responsibility of the State Board of Education, and the role and responsibility of individual Board Members.

Member Duties

Attendance and Preparation

In order to remain on the Board, each member is expected to perform his or her duty as a Board member and to attend meetings regularly. The law states that if a Board member has unexcused absences from three successive regular meetings, without attending any intermediary called special meetings, he or she can be removed from the Board. Ark. Code Ann. § 25-17-211. Telephone attendance, video conference, or similar technology is allowed at the discretion of the Chair.

Each Board member will prepare for meetings by studying and understanding relevant materials supplied by Department of Education staff or the public.

Ethical Duties

The law requires each public appointee to complete a financial disclosure form under oath each year. The form is designed to reveal a Board member's financial interest so that possible conflicts-of-interest can be identified. Financial disclosures must be filed by January 31 of every year. New Board members must also file a financial disclosure form within 30 days of their appointment to the Board.

Board members have the right to voice their opinion, or otherwise speak on, matters before the Board to the public, however, Board members cannot speak on behalf of the Board.

No member of the Board can use or attempt to use his or her official position to secure unwarranted privileges or exemptions for themselves or others.

No member of the Board may receive a gift or compensation, other than the reimbursement of expenses as authorized by law, for the performance of the duties and responsibilities of his or her office or position. The term "gift" as used in this section does not include anything with a value of less than one hundred dollars. The term "gift" does not include those things listed in Ark. Code Ann. § 21-8-402(5)(B).

Ethical Limitations on Voting

Board members are prohibited from participating in, voting on, influencing, or attempting to influence an official decision if the member has a pecuniary interest in the matter under consideration by the Board. This prohibition does not apply if the only pecuniary interest he or she may have is incidental to his or her position or accrues to him or her as a member of a profession, occupation, or large class to no greater extent than it accrues to all other members of the profession, occupation, or large class. No Board member may participate in any discussion or vote that exclusively benefits that member. *See* Ark. Code Ann. § 21-8-1001.

In the event that a member of the Board considers that he or she has a conflict of interest or that there might be an appearance of impropriety with regard to his or her participating in discussion or voting on a particular matter before the Board, he or she should notify the Board Chair and recuse.

In the event that a member of the Board considers that another Board member has a conflict of interest or that there may be an appearance of impropriety with regard to that Board member, such member will bring the issue before the Board Chair, and the Board member whose participation is questioned may either recuse or, in the absence of voluntary recusal, may be disqualified from voting by a vote of three-fourths of the Board members present.

Officers

Officers

The Board will have a Chair, Vice-Chair, and Secretary.

The Chair is the spokesperson of the Board. The Chair will not speak on behalf of the Board in regard to any position until the Board has determined that position in a meeting. The Chair is responsible for consulting with the Department of Education to organize the agenda for each meeting and running each State Board meeting.

The Vice-Chair is responsible for stepping into the role of Chair in the event that the Chair is unavailable or the Chair becomes vacant.

The Secretary is responsible for ensuring accurate minute keeping, noting member attendance, timekeeping, and calling the roll-call vote. The Commissioner of the Division of Elementary and Secondary Education acts as the Ex Officio Secretary of the Board. The Commissioner does not have a vote, but acts as an agent of the Board and performs duties as designated by the Board or by statute. All references to “Commissioner” include the Secretary of Education in the event that the same person holds both positions.

The Commissioner of the Department of Education

~~The Board employs, subject to the confirmation of the Governor, the Commissioner of the Department of Education, who is an employee of the Board and serves at the pleasure of the Governor. The Commissioner acts as an agent of the Board and performs such duties as are designated by the Board or by statute. The Commissioner acts as the Ex Officio Secretary of the Board without a vote.~~

Qualifications

Board officers must have a minimum of two years’ experience of Board service before holding office. If the member will reach two years’ of experience after he or she is elected, but before he or she will take office, the member is eligible to be an officer.

Orientation

~~Each newly appointed Board member will attend a Board member orientation session(s) organized by the Department of Education. The purpose of the orientation process is to help new Board Members gain an understanding of the role and responsibility of the State Board of Education, and the role and responsibility of individual Board Members.~~

Vacancies

If the Chair becomes vacant during a term of office, the Vice-Chair will succeed to the office of the Chair. At the first Board meeting after the Vice-Chair becomes vacant, a replacement for the Vice-Chair will may be nominated by the last named Nominating Committee any Board member and recommended to the Board at the next regular meeting of the Board. The Board will vote on the nomination or nominations at the same Board meeting.

If the Vice-Chair becomes vacant, the office will be filled in the same manner.

If the Chair becomes temporarily unavailable but such unavailability does not cause a vacancy, the Vice-Chair will temporarily serve as Chair. During this time, no Vice-Chair will be elected. If the Vice-Chair becomes temporarily unavailable, but such unavailability does not cause a vacancy, no temporary Vice-Chair will be appointed.

Election of Officers

Nomination

~~On or before March 1st each year~~ Before, or at the Board's March meeting, the Chair will appoint a Nominating Committee consisting of three Board members, ~~all of whom have served at least 18 months on the Board.~~

The Committee will meet and discuss nominations. The same person may be nominated for more than one office, ~~even if voting takes place at the same time.~~ Members of the committee are not barred from becoming nominees themselves.

The Committee will report the nominations to the Board at the April meeting. After the Nominating Committee makes its nominations, the Chair will call for nominations from other Board members not serving on the Nomination Committee ("the floor"). A member need not be recognized by the Chair to name a nomination. No second is required.

If an individual nominated does not wish to serve, they may decline the nomination and the Nominating Committee will make a new nomination. If the individual declining the nomination was nominated by the floor, no new nomination will be made. The Board will have the opportunity to question the nominees at the April meeting. If the nominee is not present at the April meeting, the Board may question the nominee before the election at the meeting in May.

Election

The election will take place by a roll-call voice vote at the May meeting. There must be a majority vote in the affirmative. If there is not a majority, the nomination fails. If the same individual is elected to both positions, he or she chooses which to accept. The Nominating Committee will make a new nomination for the other position and voting will take place immediately after.

The outgoing Chair will serve through the conclusion of the June Board meeting, at which time the newly elected Chair will take office. The outgoing Vice-Chair will serve through the conclusion of the June Board meeting, at which time the newly elected Vice-Chair will take office.

Individual office holders ~~shall be~~ are limited to serving two terms. Each term is one year.

Board Meetings

Meetings

Regular Meetings

Before the end of the calendar year, the Board will adopt meeting dates for the following calendar year. The Board typically meets every month and the Board will meet a minimum of six times per year. The meeting calendar is published on the Arkansas Department of Education's website. There is no requirement to give notice to members of regular meetings.

Special Meetings

Special meetings may be called by the Chair. In the absence of the Chair, the ~~Commissioner~~ Secretary of the Department of Education will call a meeting on the request of three members of the Board. ~~If both the Chair and the Commissioner are absent or refuse to call a meeting, any three members of the Board may call a meeting with notification to the Office of the Commissioner.~~ Board Members must be given no less than 24 hours advance actual notice of the special meeting. Confirmation by members indicating the presence of a quorum must be established before a special meeting is held.

The Board will provide at least two hours' notice to the public.

Executive Session

~~Executive sessions are only permitted when considering employment, appointment, promotion, demotion, disciplining, evaluation, or resignation of any public officer or employee or for other reasons permitted by the Arkansas Freedom of Information Act. Ark. Code Ann. § 25-19-105(e).~~

~~Notice of the meeting need not specify that there will be an executive session. The Board is required to publicly announce the purpose of any executive session before entering executive session. No resolution or motion considered or adopted in executive session will be legal unless, following the executive session, the Board reconvenes in public session and presents and votes on the resolution or motion.~~

Pursuant to Ark. Code Ann. § 25-19-105, executive sessions are only permitted in limited circumstances. The Board will follow all Administrative Procedures Act requirements related to executive session.

Order of Business

Most regularly scheduled meeting will take place over two days. The first day of each regularly scheduled meeting will follow the below Order of Business.

1. Call to Order
2. Recognitions
3. Changes to Agenda
4. Consent Agenda
5. Action Agenda
6. New Business
7. Public Comments
8. Adjournment

The second day of each regularly scheduled meeting will follow the below Order of Business:

1. Call to Order
2. Recognitions
3. Changes to the Agenda
4. Reports
5. Public Comments
6. Adjournment

In the event that all business can be heard before the Board in one day, the second day of the meeting will be cancelled and the meeting will follow the below Order of Business:

1. Call to Order
2. Recognitions
3. Changes to the Agenda
4. Consent Agenda
5. Action Agenda
6. New Business
7. Reports
8. Public Comments
9. Adjournment

If there is no agenda item in the respective section, that section will be removed from the agenda.

Agenda

An agenda for each regular meeting will be developed by ~~the Chair of the Board and the Commissioner's Office~~ in consultation with the Chair of the Board. The agenda will be made available to Board members no less than 10 calendar days prior to the Board meeting. ~~When there is less than four weeks between regular meeting dates, the agenda will be distributed no less than eight days prior to the meeting date.~~ The agenda is also made public and can be found at <http://www.arkansased.gov/state-board/meeting-agenda>. Members of the public may also obtain a copy by contacting the Office of the Commissioner.

If changes are made or additional attachments or documents need to be added to the agenda after the agenda is made available, the Commissioner's Office will republish the agenda and ensure each Board member is made aware of the changes.

~~The public may make requests to place items on the agenda. Such requests must be made to the Commissioner's Office in writing no less than 20 days prior to the regular Board meeting.~~

Changes to the Agenda

New items may be added to the agenda during the Board meeting at the Board's discretion. Members should be conscious of the need for public awareness when making a decision to add additional agenda items. New agenda items require a two-thirds vote to be added to the agenda during the Board meeting. If items are added to the agenda during the Board meeting, the items will be heard during the "New Business" section of the agenda.

The Board may remove items from the Agenda, re-organize items, or otherwise make changes to the order of the Agenda ~~at the Board's discretion~~. A request may be made by any Board member, but the decision to remove items, re-organize items, or otherwise make changes to the order of the Agenda is at the Chair's discretion and does not require a vote.

Consent Agenda

The Commissioner and Chair will identify items for inclusion on the Consent Agenda. Items not likely to need discussion and that are non-controversial may be placed on the consent agenda. Items may be removed from the Consent Agenda and placed on the Action Agenda at the request of any Board member. Board members may request that an item be moved from the Consent Agenda to the Action Agenda prior to the Board meeting or at the beginning of the Board meeting. If a Board member requests that an item be moved from the Consent Agenda to the Action Agenda, it will be placed on the Action Agenda of the same Board meeting.

Reports

After the presentation of a report, no motion needs to be made unless the Board is required to approve the report by law, Board order, or rule.

Public Comment

As a public Board, the Board welcomes public comment. Individuals and groups are permitted to make public comments in writing prior to the Board meeting by submitting their written comments to ade.commissioner@arkansas.gov no less than 72 hours prior to the Board meeting date.

An individual ~~or group~~ wishing to make public comment in person at a meeting ~~should~~ must notify the Commissioner's Office in writing to ade.commissioner@arkansas.gov by the ~~Wednesday~~ no less than 24 hours prior to the Board meeting date. If an individual wishes to speak on a particular agenda item, he or she should indicate the agenda item in the notice to the Commissioner's Office.

If the notice to the Commissioner's Office stated a particular agenda item, following the initial presentation of the item and the discussion of that item by the Board, the individual will be permitted to give public comment prior to a Board vote. The Board is permitted to engage in additional discussion after the public comment(s), but prior to voting.

If the notice to the Commissioner's Office did not state a particular agenda item, the public comment will be received at the conclusion of the agenda, as stated in the Order of Business.

To give public comment at a Board meeting, the individual must be present at the meeting and give the comments directly to the Board. The Chair must recognize the speaker before the individual's public comment begins. Individuals who are unable to attend the meeting in person are permitted to submit their public comments in writing at the e-mail address provided above. Individuals giving in person comments are not permitted to distribute written materials to Board members. Any written materials should be submitted via e-mail no less than 72 hours prior to the Board meeting to ensure that the Board has sufficient time to review them.

Each public comment is limited to three minutes. The Board may extend or limit the amount of time per public comment by a majority vote. The Board may also set time limits on how long it will hear public comments (ex: two hours) or limits on the number of public comments it will hear in person (ex: 30 comments) by majority vote. The Chair may restrict repetitive presentations.

If items are added to the agenda during the "Changes to the Agenda" portion of the meeting, those items will be placed in the "New Business" section of the agenda and public comment will be allowed only upon a majority vote of the Board.

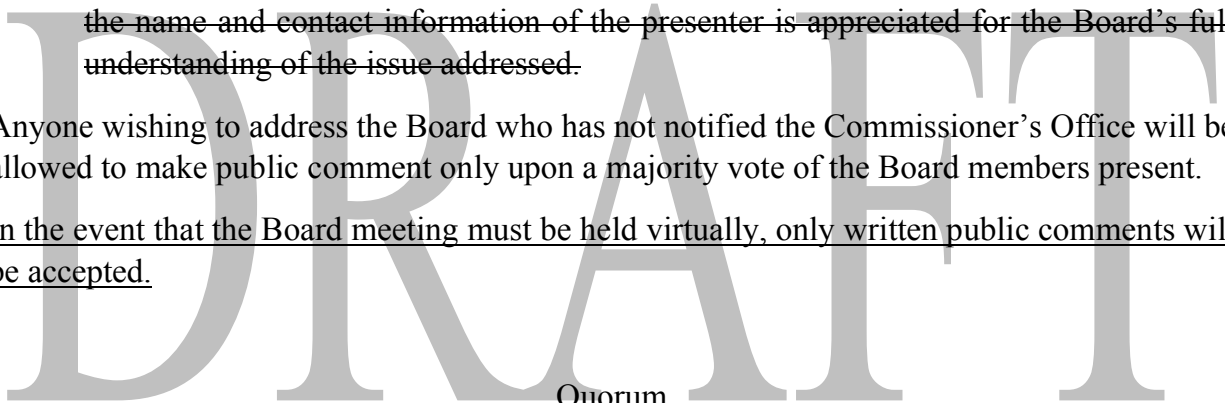
~~Anyone wishing to address the Board who has not notified the Commissioner's Office will be allowed to make public comment only upon a majority vote of the Board members present. The Board may set time limits or limits on the number of public comments it will hear. The Board has flexibility to determine how it will hear public comments and will approach decisions with a spirit of openness. Repetitive presentations may be restricted by the Chair.~~

~~While in session, comments will be received:~~

- ~~1. On an agenda item, following the initial presentation of the item and before the Board undertakes discussion and deliberation. Individuals making public comment may do so by being recognized by the Chair. Unless the Board votes to extend time, each public comment will be limited to three minutes. Repetitive presentations may be restricted by the Chair.~~
- ~~2. For matters not on the Board agenda, public comment will be received at the conclusion of the published agenda, as called for in the Order of Business. Presentations will be limited to three minutes unless the Chair allows otherwise. Written materials as well as the name and contact information of the presenter is appreciated for the Board's full understanding of the issue addressed.~~

~~Anyone wishing to address the Board who has not notified the Commissioner's Office will be allowed to make public comment only upon a majority vote of the Board members present.~~

~~In the event that the Board meeting must be held virtually, only written public comments will be accepted.~~



The minimum number of members who must be present at meetings of the Board for business to be validly transacted is a quorum of the Board. A quorum is the majority of members. In the absence of a quorum, any business transacted is null and void.

Public Notice and Access to Board Proceedings

All meetings are open to all members of the public, subject to applicable fire and safety codes, and will conform to the Arkansas Freedom of Information Act. Ark. Code Ann. § 25-19-101 *et seq.*

In the event that the meeting must be held virtually, the Board members and all participants will attend the meeting by video conferencing, or similar technology. Members of the media and public will be allowed to attend the meeting via conference call, or similar technology.

Each regularly scheduled meeting of the Board will be live streamed. Individuals may access the live stream at <http://www.arkansased.gov/state-board/watch-meeting-live>. In the event that technical issues arise, recordings of the Board meetings can be accessed at <http://www.arkansased.gov/state-board/minutes>.

Minutes

The Commissioner or his or her designee will be responsible for keeping minutes of all meetings and has the responsibility of filing, indexing, and preserving all minutes, papers, and documents pertaining to the business and proceedings of the Board. The minutes of each meeting will be included in the materials prepared for the approval of the Board at the next regular meeting. Board minutes may be accessed at <http://www.arkansased.gov/state-board/minutes>.

Board Rules of Procedure

Speaking

Before a member can make a motion or speak in debate, he or she must obtain the floor by being recognized by the Chair as having the right to speak at that time. The Chair, or if the Chair is absent, the Vice-Chair, is the only person that can recognize a member as having the right to speak. There is no limit on the amount of time members may speak or on the number of times a member may speak.

During discussion and debate, every member, including the Chair, has the right to speak.

Motions

Motions are made using the following order:

1. Discussion
2. A member makes the motion
3. Another member seconds
4. The Chair states the question on the motion
5. Voting

Once the Chair recognizes that the motion is pending, the Chair may allow additional debate before voting. Discussion of a topic is permitted before a motion is before the Board.

Until the Board votes on a motion, the maker has the right to modify or withdraw it. The Board, ~~or the maker~~, can amend a motion before voting on it. ~~If the maker of the motion agrees with the amendment, it can be done. If if the maker does not agree to modify the motion, the motion can only be amended~~ by a majority vote to amend the motion on the floor.

A motion should be voted on before another motion can be made, however, a motion that limits the original motion, amends the original motion, or otherwise changes the original motion, can be made. In such instances, the Chair will clarify which motion is before the Board before voting.

If there is a motion on the floor and a member wishes to make a motion that is contrary to or replaces entirely the motion on the floor, the member can only do so by a substitute motion. Substitute motions may be made when a motion is on the floor and a member wishes to make a new motion, rather than amend the original motion. Before the substitute motion can be placed on the floor, the Board must first vote to hear the substitute motion by a majority vote. If the motion to hear the substitute motion passes, the substitute motion may be made. Once the substitute motion is made and seconded, it becomes the motion on the floor until the Board votes. Once the Board votes on the secondary motion, the original motion is back on the floor, unless it is withdrawn.

Rescinding, Amending, and Reconsidering Actions

A motion to rescind may be made if the Board wishes to cancel a previous order or action. The effect is to strike out the entire motion, resolution, order, or rule that has been adopted at a previous time. Such a motion requires a majority vote.

The Board may also amend something previously adopted if the Board desires to change only part of the resolution, order, or rule. Such a motion requires a majority vote.

If there is a changed situation, or new information, the Board may vote to reconsider an action which has already been voted on. Such a motion requires a majority vote.

Voting

Affirmative voting comes first and the Chair indicates the manner by which members should vote. The negative vote follows. The Chair must always call for a negative vote. The Chair should not call for abstentions in taking a vote. If the Chair is in actual doubt of the vote, he or she should immediately retake the vote.

The terms “majority vote,” “two-thirds vote,” and “three-fourths vote” refer to the amount of votes needed of the votes cast, not of the members present or of the entire membership.

Although it is the duty of every member who has an opinion on a question to express it by vote, he or she can abstain, since he or she cannot be compelled to vote. In the situation where a majority vote, two-thirds, or three-fourths vote is required, abstentions have no effect on the outcome of the vote since what is required is a majority, two-thirds, or three-fourths of the votes cast.

A member has a right to change his or her vote up to the time the result is announced. After that, he or she can make the change only by the unanimous consent of the Board.

The Chair has the same voting rights as any other member. The Chair protects his or her impartial position by exercising his or her voting right only when his or her vote would affect the outcome, but is permitted to vote on any motion before the Board. If he or she does not wish to vote, he or she can abstain.

Where there is a tie without the Chair's vote, and the Chair abstains, the motion is lost. When there is one affirmative more than the negative without the Chair, the motion is adopted if the chair abstains, but if the Chair votes in the negative, the result is tied and the motion is lost.

After a vote, members can still propose or demand certain actions that may change the result. Members can challenge the method of voting, demand a Roll-Call, move to retake the vote, or ask for unanimous consent to change his or her vote.

Method of Voting

The vote of a motion is taken by voice, unless the Chair otherwise specifies.

No votes will be accepted by proxy. A member must be in attendance, either in person or by telephone, video conference, or similar technology, in order to discuss and vote on any issue before the Board.

Ethical Limitations

~~No member should vote on a question in which he has a direct personal or pecuniary interest not common to other members of the organization.~~

Roll-Call

The Board may take a vote by Roll-Call at the request of any Board member, or at the discretion of the Chair. In this instance, the Commissioner will call the names of each Board member. The Board member will respond with his or her vote. The Commissioner will report the final tally to the Chair, who will announce the result.

Hearings

The procedure for hearings before the Board is dictated by the relevant division rules, Arkansas laws, and the Administrative Procedures Act.

Administrative Rules

Unless an emergency exists, the Board will follow the below process for the adoption of Administrative Rules.

1. ~~The Department of Education~~ A Division of the Department of Education will develop a first draft that will be ~~approved by the Governor. Once approved, the proposed Rules will be placed on the Action Agenda for the next regularly scheduled board meeting for consideration for release for public comment pending Governor's review.~~
2. The Board will review the first draft and ask any pertinent questions. Upon approval of the Board, the draft will be ~~disseminated for public comment in accordance with the Arkansas Administrative Procedures Act. Ark. Code Ann. § 25-15-201 et seq.~~ forwarded to the Governor's Office for review.
3. After the draft has been reviewed by the Governor, it will be disseminated for public comment in accordance with the Arkansas Administrative Procedures Act. Ark. Code Ann. § 25-15-201 et seq.
4. The ~~Department~~ Division will provide the Board with a summary of the public comments, the ~~Department's~~ Division's responses to those comments, and a revised draft if revisions were made necessary as a result of those comments. Substantive revisions require an additional approval review by the Governor's Office and a second public comment period. Non-substantive revisions do not require additional Governor's ~~office approval~~ Office review or public comment time. The Board may issue final approval at the conclusion of the process.

Emergency Rules

The Board may, in certain circumstances, adopt emergency rules without following the public notice requirements. Under the Administrative Procedures Act, if the Board finds that imminent peril to the public health, safety, or welfare requires adoption of a rule upon fewer than thirty days' notice and states in the rules its reasons for that finding, it may proceed without prior notice or hearing. After adopting emergency rules, the Board should begin the permanent promulgation process if it had not already done so.

An emergency rule may be effective for no more than 120 days.

Committees, Task Forces, and Liaisons

The Board may establish a committee or task force by majority vote. The chair will appoint the committee or task force chair and members. The purpose of a committee or task force is to plan, consider, and investigate items in the area of its responsibilities. A committee or task force may also be established for the purpose of carrying out a specific task. Committees and task forces should only be established for a specific purpose. Each committee or task force will report its findings or recommendations to the Board as a whole. Findings and recommendations will be made in the manner, and within the timeline, prescribed by the Board when creating of the committee or task force. Committees and task forces may exist until they complete their assignment, fulfill their purpose, or until the Board otherwise determines that the committee or task force should conclude. The Board may also set a specific time for expiration of the committee or task force during formation.

Each Committee will have at least one Board member. The Chair may appoint members of the public to a Committee. The Chair also may delegate his or her appointment power to the Board member sitting on the Committee.

The Chair will appoint, as appropriate, liaisons to carry out specific duties described in the appointment. Liaisons may be individuals or entities and may be within the Department of Education or external partners.

Subpoena Power

The Board, through its Chair, has the power to issue subpoenas and bring before the Board as a witness any person in the State pursuant to Ark. Code Ann. § 6-17-425. The Board will, by order, provide for the issuance of a subpoena upon the request of a party to a proceeding pending before the Board or at the request of the Board. The Board may issue a subpoena only after a majority vote approving the issuance.

If a party to a proceeding requests the issuance of a subpoena, it is the duty of the party requesting it to properly serve the subpoena. The subpoena must contain all of the requirements of Ark. Code Ann. § 6-17-425(3).