

Initial Legal Review

Prepared by: Stephen M. Reynolds, staff attorney for the Department

Charter School Name: Newman Virtual Academy

The charter is requesting the following waivers:

Waiver Topic	Statutes, Standards, Rules	Notes
1. Typical School Day/Clock Hours	Ark. Code Ann. § 6-16-102(a)(5) (School Day) A.C.A. § 6-15-216 (120 clock hours) 1-A.4.2 (6 Hour Day) 1-A.2 (Seat Time) 1-A.4.3 (recess)	I have no legal concerns. Please be prepared to explain this to the CAP.
2. Mandatory Attendance	Ark. Code Ann. 6-18-213(a)(2)	The law cited only requires the charter to have a policy for taking attendance if it is a virtual charter. From your rationale; it appears that you have a policy for how you will take attendance; therefore this waiver is unnecessary.
3. Flags/Period of Silence and Pledge of Allegiance	Ark. Code Ann. §§ 6-10-115 (Period of Silence) 6-16-108 (Recitation of Pledge of Allegiance) 6-16-105 (US Flag) 6-16-106 (AR Flag)	I have no legal concerns.
4. Teacher Licensure	Ark. Code Ann. §§ 6-17-1501 et. seq 6-17-1701 et. seq A.C.A §§6-15-1004 A.C.A §§6-17-309 A.C.A §§6-17-401 A.C.A § 6-17-902 A.C.A §§ 6-17-919 Standard for Accreditation 4-D.1 DESE Rules Governing Educator Licensure – Section 7	Arkansas Code 6-17-1501 et seq and 6-17-1701 et seq were repealed by recent legislation; therefore those waivers are unnecessary.

<p>5. Class Size and Teaching Load</p>	<p>Ark. Code Ann. §§ 6-17-812 6-10-122</p> <p>Standards for Accreditation 1-A.5; 1-A.6</p>	<p>6-10-122 is a waiver of the requirement to have an AED on campus, which is addressed in waiver no. 42 below.</p> <p>You will need to add a waiver of the DESE Rule Governing Class Size and Teaching Load.</p>
<p>6. Food Services- Breakfast Program School Lunch Program</p>	<p>Ark. Code Ann. §§ 6-18-705 6-20-701 et seq.</p>	<p>You will need to add a waiver of Standard for Accreditation 3-D.1 and the DESE Rules Governing Nutrition and Physical Activity and Body Mass Index for Age Assessment Protocols in Arkansas Public Schools (excluding sections 5.02.5 and 12.00)</p> <p>Please confirm that you are aware that no federal food service requirements can be waived.</p> <p>Please combine with waiver nos. 18 and 19.</p>
<p>7. CPR Instruction</p>	<p>Ark. Code Ann. § 6-16-143</p>	<p>Under Ark. Code Ann. § 6-23-401(b) this is NOT waivable.</p>
<p>8. Library Media Services</p>	<p>Ark. Code Ann. §§ 6-25-105 6-25-104 6-25-103</p> <p>Standards for Accreditation 4-F.1; 4-F.2</p>	<p>Are you planning on providing library media services at all, or do you just need a waiver of the licensure requirements? It is unclear from your rationale. The law does not require a physical library.</p>
<p>9. Salaries - Classified School Employee Minimum Salary Act</p> <p>Salaries - Teacher Compensation Program</p> <p>Salaries - Teacher Definition</p>	<p>Ark. Code Ann. §§ 6-17-2201 et seq 6-17-2401 et seq. 6-17-902 6-17-919 6-17-919</p> <p>DESE Rules Governing School District Requirements for Personnel Policies, Salary Schedules, Minimum Salaries</p>	<p>Please note that if you request a waiver of the minimum teacher salary requirements, you will not receive additional funding under Arkansas Code 6-17-2403(a)(1)(C)</p> <p>Some of these are duplicative.</p> <p>This rule does not appear to exist.</p>

Salaries - Warrants Void Without Valid License and Contract Salaries - Warrants Void Without Valid License and Contract		
10. Principal Licensure	Standard for Accreditation 4- C.2	I have no legal concerns. Please combine with waivers nos. 11 and 46.
11. Principals - Qualifications and Responsibilities Principal Licensure	Ark. Code Ann. §§ 6-17-302 Standard for Accreditation 4- C.2	Please combine with waiver no. 10.
12. Salaries	Ark. Code Ann. §§ 6-17-902 6-17-908 6-17-919	I have no legal concerns. Some of these are duplicative.
13. Student Attendance	Ark. Code Ann. §§ 6-18-209(b) 6-18-213	6-18-213 only requires the charter to have a policy for taking attendance if it is a virtual charter. From your rationale; it appears that you have a policy for how you will take attendance; therefore, this waiver is unnecessary. Please provide additional rationale for the request of 6-18-209(b).
14. Text Books	Ark. Code Ann. §§ 6-21-413	Please combine with waiver no. 55.
15. Gifted and Talented- Annual Reporting Gifted and Talented- Expenditures	Ark. Code Ann. §§ 6-42-109 6-20-2208(c)(6)	I have no legal concerns. Please be prepared to explain this to the CAP. Please combine with waiver nos. 16, 17, and 52.
16. Gifted and Talented Program Approval Standards	DESE Rule	I have no legal concerns. Please be prepared to explain this to the CAP. Please combine with waiver no. 15.

17. Gifted and Talented Services	Standard for Accreditation 2-G.1 DESE Rule Governing Gifted and Talented Program Approval Standards	I have no legal concerns. Please be prepared to explain this to the CAP. Please combine with waiver no. 15.
18. Food Services	Standard for Accreditation 3-D.1	Please confirm that you are aware that no federal food service requirements can be waived. Please combine with waiver no. 6.
19. Health Services - Breakfast Program	Ark. Code Ann. §§ 6-18-705	Please confirm that you are aware that no federal food service requirements can be waived. Please combine with waiver no. 6.
20. Health and Safety of Students, Employees, and Visitors	Standard for Accreditation 2-E.2	Under Ark. Code Ann. § 6-23-401(b) this is NOT waivable.
21. Health and Safety Tornado and Safety Drills	Ark. Code Ann. § 6-10-121 ACT 61 - Junior Fire Marshal Program DESE Rule	Under Ark. Code Ann. § 6-23-401(b) this is NOT waivable. The requirements under these laws would be limited to any physical buildings or facilities.
22. Class Size and Teaching Load	Ark. Code Ann. §§ 6-17-812, A.C.A §§ 6-10-122 DESE Rule- Class Size and Teaching Load	This is duplicative – see waiver topic no. 5
23. Board of Directors - Vacancy Due to Felony Conviction	A.C.A §§ 6-13-612(c)	I have no legal concerns.
24. Board of directors – Meeting attendance	A.C.A §§ 6-13-619(c)	I have no legal concerns. Please combine with waiver no. 23.
25. Board of Directors – Attend Meeting Remotely	A.C.A §§ 6-13-619(d)(2) A.C.A §§ 6-13-619(d)(3)	I have concerns with the requested waiver of A.C.A §§ 6-13-619(d)(3). Please provide a rationale for allowing a board member to attend an executive session

		remotely and explain how you will ensure that board members in executive session will not have individuals present who are not authorized to be present during an executive session.
26. Emergency Plans and Panic Button	A.C.A §§ 6-15-1302	Under Ark. Code Ann. § 6-23-401(b) this is NOT waivable. The requirements under these laws would be limited to any physical buildings or facilities.
27. Acquisition of Commodities - Reimbursement for Classroom Activities	A.C.A §§ 6-21-303(b)(1)(A)	I have no legal concerns.
28. Alternative Learning Environment	DESE Rule - Student Special Needs Funding Standard for Accreditation 2-I.1 A.C.A. § 6-48-103 A.C.A §§ 6-18-503(a)(1)(C)(i) A.C.A §§ 6-15-1005(b)(5)(A) A.C.A. § 6-48-102	What is your plan to provide alternative learning environments for students should the need arise? Please be prepared to explain this to the CAP.
29. Alternative Pay Programs Personnel	A.C.A §§ 6-17-119 DESE Rule - Alternative Pay Programs	6-17-119 was repealed by recent legislation. The DESE rule is currently in the process of being repealed; therefore, this waiver is unnecessary.
30. Board of Directors - Effect of Minority Population on Election	A.C.A §§ 6-13-631	This was repealed by recent legislation; therefore, the waiver is no longer necessary.
31. Board of Directors - Election by Zone and At Large	A.C.A §§ 6-13-630	I have no legal concerns. Please combine with waiver no. 23.
32. Board of Directors - Election from	A.C.A. § 6-13-615	I have no legal concerns. Please combine with waiver no. 23.

Single-Member Zones		
33. Board of Directors - General Election Laws	A.C.A §§ 6-14-101 et seq.	I have no legal concerns. Please combine with waiver no. 23.
34. Board of Directors - Length of Terms	A.C.A §§ 6-13-608	I have no legal concerns. Please combine with waiver no. 23.
35. Board of Directors - Meeting Attendance	A.C.A §§ 6-13-619(c)(1)(A) A.C.A §§ 6-13-619(d)(4)	I have no legal concerns. Please combine with waiver no. 23.
36. Board of Directors - Powers and Duties	A.C.A §§ 6-13-620(5)(A)	I have no legal concerns. Please combine with waiver no. 23.
37. Board of Directors - Quorum	A.C.A §§ 6-13-619(c)(3)	This is duplicative. You've requested a waiver of A.C.A §§ 6-13-619(c) above in waiver no. 24.
38. Board of Directors - Size	A.C.A. § 6-13-634	I have no legal concerns. Please combine with waiver no. 23.
39. Board of Directors - Temporary Vacancy	A.C.A §§ 6-13-613	I have no legal concerns. Please combine with waiver no. 23.
40. Board of Directors - Vacancies	A.C.A §§ 6-13-611(b) A.C.A §§ 6-13-611(c)	I have no legal concerns. Please combine with waiver no. 23.
41. Business Manager	DESE Rule- Minimum Qualifications for General Business Managers	This rule no longer exists. Please update your request to DESE Rule Governing the Arkansas Fiscal Assessment and Accountability Program – Section 12. Please combine with waiver no. 45.
42. Defibrillators Required	A.C.A §§ 6-10-122	Does/Will the charter have an administrative building? If so, does/will the charter have an AED in the building?
43. Documents Posted to School District Websites	DESE Rule Documents Posted to School District Websites Sections 6.01-6.04	Please provide additional rationale for this request.
44. Employ Full-Time Superintendent	A.C.A §§ 6-13-109 A.C.A §§ 6-17-427	You will need to add a waiver of Standard 4-B.2 to fully effectuate this waiver.

<p>Superintendent - Licensure</p> <p>Superintendent Mentoring Program</p>	<p>Standard for Accreditation 4- B.1</p> <p>DESE Rule Superintendent Mentoring Program</p> <p>DESE Rule Educator Licensure</p>	
45. Employ General Business Manager	<p>A.C.A. § 6-15-2302 (b)</p> <p>Standard 3-A.5</p>	I have no legal concerns. Please combine with waiver no. 41.
46. Employ Principal	Standard for Accreditation 4- C.1	Please combine with waiver no. 11.
47. Eye and Vision Screening Procedures	A.C.A §§ 6-18-1501 et. seq.	What is the rationale behind the waiver of eye and vision screenings? Does the school arrange for students to have these screenings at all?
<p>48. Health/Safety: Automated External Defibrillator Devices and CPR</p> <p>Health/Safety: Eye and Vision Screening Report</p> <p>Health/Safety: Nutrition and Physical Activity Standards</p>	<p>DESE Rules</p> <p>Nutrition/Physical Sections 5.02, 6.00, 7.08- 7.11, 12.00</p>	<p>Under Ark. Code Ann. § 6-23-401(b) this is NOT waivable.</p> <p>What is the rationale behind the waiver of eye and vision screenings? Does the school arrange for students to have these screenings at all?</p>
49. Facilities - Fire Hazard Inspections	A.C.A §§ 6-21-106	<p>Under Ark. Code Ann. § 6-23-401(b) this is NOT waivable.</p> <p>The requirements under these laws would be limited to any physical buildings or facilities.</p>
50. Finance - Teacher Salaries	A.C.A §§ 6-20-2208(c)(1)	
51. Fire Marshall Program	A.C.A. § 6-10-110	Under Ark. Code Ann. § 6-23-401(b) this is NOT waivable.

		The requirements under these laws would be limited to any physical buildings or facilities.
52. Gifted and Talented	DESE Rule Gifted and Talented Program Approval Standards	I have no legal concerns. Please be prepared to explain this to the CAP. Please combine with waiver no. 15.
53. Health Services - School Nurse	A.C.A §§ 6-18-706	Under Ark. Code Ann. § 6-23-401(b) this is NOT waivable.
54. Personnel - Emergency First Aid Statute	A.C.A §§ 6-17-102	Under Ark. Code Ann. § 6-23-401(b) this is NOT waivable. The requirements under these laws would be limited to any physical buildings or facilities.
55. Instructional Materials	DESE Rule Instructional Materials (5.01)	Please combine with waiver no. 14
56. Personnel Policies - Classified Committee Organization and Duties Personnel Policies - Classified Personnel Policies Personnel Policies - Classified Personnel Policy Committee Personnel Policies - Incorporation Into Classified Contracts	A.C.A. § 6-17-2305 A.C.A. § 6-17-2301 A.C.A. § 6-17-2303 A.C.A. § 6-17-2304	Please provide a rationale for requesting a broader waiver than 6-17-2301(c)(1) & (d)(2).
57. Personnel Policies - adopted and	Standard for Accreditation 3-A.2	Please provide additional rationale. Does the charter intend to not post its personnel

posted to website		policies on its website? Does it intend to not have personnel policies at all?
<p>58. Personnel Policies - Duties and Organization of Licensed Committee</p> <p>Personnel Policies - Incorporation into Contracts</p> <p>Personnel Policies - Interim Committee</p> <p>Personnel Policies - Licensed Personnel Policy Committee</p> <p>Personnel Policies - Public School Employee Fair Hearing Act</p> <p>Personnel Policies - Requirements</p> <p>Personnel Policies - School Employees' Minimum Sick Leave Law</p> <p>Personnel Policies - School</p>	<p>A.C.A. § 6-17-205</p> <p>A.C.A. § 6-17-204</p> <p>A.C.A. § 6-17-209</p> <p>A.C.A. § 6-17-203</p> <p>A.C.A §§ 6-17-1701 et seq.</p> <p>A.C.A. § 6-17-201</p> <p>A.C.A §§ 6-17-1301 et seq.</p> <p>A.C.A §§ 6-17-1301 et seq.</p> <p>A.C.A §§ 6-17-1201 et seq.</p>	<p>6-17-1701 et seq. was repealed by recent legislation – see waiver no. 4.</p> <p>Please provide rationale for requesting a broader waiver than 6-17-201(a) & (c).</p> <p>Some of these are duplicative.</p>

Employees' Minimum Sick Leave Law		
Personnel Policies - Teachers' Minimum Sick Leave Law		
59. Site-Based Decision Making	A.C.A §§ 6-13-1301 et. seq.	I have no legal concerns.
60. Student Attendance - Reports	A.C.A §§ 6-18-213(a)(2)	This is duplicative – see waiver nos. 2 and 13.
61. School Counselor Ratio	Standard for Accreditation 4-E.2	I have no legal concerns. Please be prepared to explain this to the CAP.
62. Student Discipline and School Safety	Student Discipline and School Safety DESE Rule Section 5.04.10	What is your plan to provide alternative learning environments for students should the need arise? Please be prepared to explain this to the CAP.
63. Student Services	DESE Rule Public School Student Services 3.01.6	This rule no longer exists.
64. Utility and Maintenance Expenditure Requirements	A.C.A. § 6-21-808 (d)	Please provide additional rationale. How do you intend to pay for utilities and maintenance costs for the drop-in centers?

Note: