

**ARKANSAS DEPARTMENT OF EDUCATION DIVISION OF ELEMENTARY AND  
SECONDARY EDUCATION RULES GOVERNING ELIGIBILITY AND FINANCIAL  
INCENTIVES FOR NATIONAL BOARD TEACHING STANDARDS PUBLIC  
COMMENTS AND RESPONSES OF THE DIVISION OF ELEMENTARY AND  
SECONDARY EDUCATION**

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Commenter Name: Rebecca Miller-Rice, Bureau of Legislative Research (10/31/2019)

- (1) I see that throughout the rules, the term “bonus” has been either removed or replaced by the term “payment.” What is the reasoning behind this change when Ark. Code Ann. §§ 6-17-412 and 6-17-413 clearly refer to and use the term “bonus”? *See, e.g.*, Ark. Code Ann. § 6-17-412(a) (defining “starting bonus” and “yearly bonus”); Ark. Code Ann. § 6-17-413 (using the term “bonuses” in the title of the statute); Ark. Code Ann. § 6-17-413(a)(3)(A) (directing the Division to pay a “yearly incentive bonus”); and multiple other references.

**Division Response:**

As a result of audit findings from the Internal Revenue Service and subsequent guidance from the Arkansas Department of Finance and Administration (DFA), the Division of Elementary and Secondary Education (DESE) was instructed to amend the process for disbursing payments, including bonuses and stipends, directly to Arkansas educators. Funds for payments must be disbursed by DESE to the educator’s employing school district who will then make the payment to the educator after deducting appropriate taxes, retirement, and withholdings. Categorizing a payment as a “bonus” or “stipend” has potential tax, withholding, and contract implications that could negatively affect educators and/or school districts. Using the term “payment” allows districts the flexibility to determine the most appropriate payment method for the district and educator.

**Comment Considered: No change made**

- (2) Section 4.1.2 – What is the basis for the additional requirement that the applicant be applying for initial candidacy when Ark. Code Ann. § 6-17-413(a)(1)(B) appears to only require that the teacher (1) have completed at least three years of teaching in the Arkansas public school system before applying and (2) shall not have previously received state funding for participation in any certification area in the National Board program, both requirements that are already included in the rules?

**Division Response:**

“And must be applying for initial candidacy;” was added to clarify that funding is for initial certification and not for renewal.

**Comment Considered: No change made**

- (3) Section 4.2.3 – (a) What is the reasoning behind this requirement? (b) What happens if a candidate fails to submit all NBPTS components within the first year candidacy cycle?

**Division Response:**

The Division is required to submit the information to NBPTS and this requirement clarifies that if the candidate receives state funding and does not meet this requirement, they have to repay the funds.

**Comment Considered: No Change made**

- (4) Section 4.4 – Why the change from 60 days to 30 days for receipt of the application under this provision?

**Division Response:**

The Division has a deadline of getting the information to the State Board no later than the Feb. board meeting. This is so candidates can meet the NBPTS deadlines of purchasing components by the end of Feb. Changed from 60 days to “14 days after the release of NBPTS scores” to give enough time for the Advisory Committee to review and submit their recommendations to State Board.

**Comment considered: Non-substantive change made**

- (5) Section 4.4 – (a) What is the reasoning behind the requirement that the candidate submit all remaining NBPTS components within the second year candidacy cycle? (b) What happens if a candidate fails to do so?

**Division Response:**

The Division is required to submit the information to NBPTS. This requirement clarifies that if the candidate receives state funding and does not meet this requirement, they have to repay the funds.

**Comment Considered: No Change Made**

- (6) Section 5.1.1 – Should the “if” in “if at the time of” be “and,” in accord with Ark. Code Ann. § 6-17-413(a)(3)(A)?

**Division Response:**

Took the strike through off the “and” and added a comma before.

**Comment Considered: Non substantive Change made.**

- (7) What is the rationale for the addition of the term “gross” in Section 5.1.2 and throughout where that term does not appear to have been used in Ark. Code Ann. § 6-17-413?

**Division Response:**

As a result of audit findings from the Internal Revenue Service and subsequent guidance from the Arkansas Department of Finance and Administration (DFA), the Division of Elementary and Secondary Education (DESE) was instructed to amend the process for disbursing payments, including bonuses and stipends, directly to Arkansas educators. Funds for payments must be disbursed by DESE to the educator’s employing school district who will then make the payment to the educator after deducting appropriate taxes, retirement, and withholdings. Categorizing a payment as a “bonus” or “stipend” has potential tax, withholding, and contract implications that could negatively affect educators and/or school districts. Using the term “gross” signifies that taxes, benefits, and retirement will be withheld from the payment, resulting in the educator receiving a net lesser amount.

**Comment Considered: No change made**

- (8) Section 5.3 – I do not understand the last sentence in this section. (a) What does it mean? (b) What is an “annual profile”? (c) What is the “date determined by the Division under Sections 5.1 and 5.2” as the only date I see is when the certification process was begun or certification or recertification was obtained?

**Division Response:**

The “annual profile” is what each NBCT completes in order to be able to receive their NBCT bonus. It serves as an application. It’s to make sure they meet such definitions as “classroom teacher or they have the same position. Removed “under Sections 5.1 and 5.2.” and should not have been included in the first draft. The date determined will be made annually in a Commissioner’s Memo.

**Comment Considered: No change made**

- (9) Section 8.3 – “[R]ules” rather than “rule”?

**Division Response:**

**Comment Considered: Non-substantive change made**

(10) Chart – Why is this being removed from the rules?

**Division Response:**

Removed Chart because it caused confusion. The chart will still be updated and posted on the Division’s website and will be updated regularly.

**Comment Considered: No change made**

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Commenter Name: Lucas Harder Arkansas School Board Association (10/28/2019)

1.01: As “Division” is not previously written out in entirety or defined in Section 3 of the Rules, I would recommend either writing out the full Division title with a parenthetical “Division” or adding a definition at a new 3.05 if my recommendation for 3.02 is taken.

3.02: I would recommend making this 3.13 So that the definitions are in alphabetical order.

**Division Response:**

Moved the definitions so they would be in alphabetical order and included a definition for Division.

**Comment Considered: Non-substantive change made**