

Initial Legal Review

Charter School Name: Garfield Scholars’ Academy

General Legal Concerns:

Are these all the waivers you are requesting? Please understand that if you do not request a waiver then it will be assumed that you intend to fully comply with the law, standard, and rules where applicable.

THE CHARTER IS REQUESTING THE FOLLOWING WAIVERS:

WAIVER TOPIC	STATUTES, STANDARDS, RULES	NOTES
1. Alternative Learning Environment	Ark. Code Ann. § 6-15-1005(b)(5) 6-18-503(a)(1)(c)(i) 6-48-102 Standard 2-I.1 Arkansas Department of Education Rules Governing Student Special Needs Funding - Section 4	You will also need to add a request for 6-48-103 to fully effectuate this waiver. The correct title of the rules is “DESE Rules Governing Student Special Needs Funding – Section 4” Please make sure you correct this on your final application. Please be prepared to provide further rationale on how students needs will be met .
2. Superintendent	Ark. Code Ann. § 6-13-109 6-13-427 Standard 4-B.1 4-B.2 DESE Rules Governing the Superintendent Mentoring Program	How will you ensure that your board is adequately trained to serve as a superintendent?
3. Transportation	Ark. Code Ann. §§ 6-19-101 et seq. Standard 6-A.2	A waiver of this section does not waive this charter’s responsibility to provide transportation to a student with a disability if transportation is required by the IEP.

	Standard 6: Facilities and Transportation	<p>Standard 6-A.2 is not waivable under Ark. Code Ann. § 6-23-401(b), as it is for school safety.</p> <p>That is not a set of rules, and no rules accompany transportation that would be necessary for you to waive. Please remove this on your final application.</p>
4. Body Mass Index Assessment	<p>Ark. Code Ann. §§ 6-16-102 6-16-132 6-18-719 20-7-134 20-7-135</p> <p>Standard 5.02.5 12</p> <p>DESE Rules Governing Nutrition and Physical Activity and Body Mass Index for Age Assessment Protocols in Arkansas Public Schools.</p>	<p>The CAP/SBE cannot grant waivers of any law outside of Title 6.</p> <p>As this is a health requirement, you cannot have a waiver of this under Ark. Code Ann. § 6-23-401(b).</p>
5. Curriculum - Visual Art or Music/Fine Arts (AQT)	<p>Ark. Code Ann. § 6-16-130(a)</p> <p>Standard 1-A.1.1.5 1-A.1.2.5 1-A.1.3.6</p> <p>DESE Rules Governing Visual Art and Music</p>	<p>If you are seeking this waiver solely for licensure, then you can narrow your request to 6-16-130(a)(3).</p> <p>You do not need a waiver of the standards if you are going to be providing fine arts curriculum.</p> <p>You can also narrow your waiver request to Rule 3.03 only if you only need the waiver for licensure.</p>
6. Library Media Specialist (AQT)	<p>Ark. Code Ann. § 6-25-104</p> <p>Standard 4-F.1 4-F.2</p> <p>DESE Rules Governing Educator Licensure</p>	<p>Do you need a waiver of Library Media Services (6-25-103 & Standard 2-D.1)?</p> <p>How will you ensure that the library media standards are taught?</p>

		<p>The Rules cite is inappropriate here. Please remove in the final application.</p> <p>Please note that Act 372 of 2023 has changed the challenge policy requirements for materials. You will need to review this and ensure you are complying with the updated requirements.</p>
<p>7. Physical Education (AQT)</p>	<p>Ark. Code Ann. §§ 6-23-101 et seq.</p> <p>Standard 7.01.1</p> <p>DESE Rules Governing Educator Licensure</p>	<p>From your rationale it appears that you intend to offer physical education but may not have a licensed teacher.</p> <p>The citation for physical education is 6-16-132 and based on 6-16-132(e) a district does not have to hire personnel licensed in physical education.</p>