

ARKANSAS DEPARTMENT OF EDUCATION, DIVISION OF ELEMENTARY AND SECONDARY EDUCATION RULES GOVERNING ACT 1240 WAIVERS

PUBLIC COMMENTS AND RESPONSES OF THE ARKANSAS DEPARTMENT OF EDUCATION, DIVISION OF ELEMENTARY AND SECONDARY EDUCATION

Commenter Name: Rebecca Miller-Rice, Bureau of Legislative Research (4/27/20)

Comment (1): Section 3.03 -- Is there a reason that "[a] copy of the waivers granted to the open-enrollment public charter school" was not also included, as set forth in Ark. Code Ann. s 6-15-103(b)(2)?

Division Response: The Division has a complete list of all waivers granted to open-enrollment public charter schools that can be used to verify that an open-enrollment public charter school has requested the waiver, so there is no need to applicants to include a copy with the petition. **No change made.**

Comment (2): Section 3.05 -- On what authority does the Division rely for excluding such waiver requests?

Division Response: Act 1240 waivers can only be granted if an open-enrollment public charter school already holds the waiver. Open-enrollment public charter schools are prohibited from obtaining waivers in the areas listed in Section 3.05 by the DESE Rules Governing Public Charter Schools and Ark. Code Ann. § 6-23-401. **No change made.**

Comment (3): It appears that the numbering is off between Sections 3.05 and 3.06.

Division Response: The numbering has been changed. **Non-substantive change made.**

Comment (4): Section 3.05 (pertaining to recess) -- Is there a reason that the rule permits a "district" to request a recess waver, where Ark. Code Ann.§ 6-16-102(a)(5)(E)(i) provides that a "public elementary school" may?

Division Response: Individual schools cannot make 1240 waiver requests. All 1240 waiver requests must be made by districts. The Act 1240 waiver pathway specifically states that "a public school district may petition the State Board of Education." A district can specify a particular school in its waiver request. If a public elementary school wishes to waive the requirements of recess, the district can make the request for a waiver for a particular school. **No change made.**

Comment (5): Section 5.00 -- On what authority does the Division rely for the review and modification or revocation of waivers once granted? Is the Division comfortable that such a review does not conflict with Ark. Code Ann. s 6-15-103(c)(3) that provides a granted waiver "shall be valid for the duration approved by the Board"?

Division Response: The Division relies on the broad authority granted by Ark. Code Ann. § 6-15-103(d), which allows the Division to promulgate rules to implement the section. Just like waivers for open-enrollment public charter schools and district conversion charter schools, these Rules allow waivers to be reviewed, modified, or revoked. The purpose is to give flexibility for the State Board to modify or revoke a waiver if the waiver is not (1) serving the purpose outlined in the petition, (2) causing an academic or fiscal detriment to the district, or (3) otherwise being misused. This follows the same process in place for other waiver pathways. **No change made.**

Commenter Name: Lucas Harder, Arkansas School Boards Association (10/3/20)

Comment(1): I would recommend adding the following definitions so that the items could be shortened in the rest of the document: "Standard" for the Standards for Accreditation, "State Board" as there are some places where the document uses "State Board of Education", others "State Board", and sometimes just "Board".

Division Response: Section 2.02 has been added to provide a definition of "State Board". No other changes. **Non-substantive changes made.**

Comment(2): Section 3.01.1: I would recommend changing this to read "Before a school district may request a waiver, the school district board of directors must adopt a resolution authorizing the request for the waiver(s)." In Section 3.03.4, in alignment with my recommended changes to 3.01.1, I would recommend changing this to read "A signed copy of the resolution adopted by the school district's board of directors authorizing the district to request the waiver(s)." Section 6.05.2.6: In alignment with my recommended changes to 3.01.1 and 3.03.4, I would recommend changing this to read "A signed copy of the resolution adopted by the school district's board of directors authorizing the district to request the waiver(s) extension."

Division Response: Recommended language adopted in Section 3.01.1, Section 3.03.4, and Section 6.05.2.6. **Non-substantive change made.**

Comment(3): Section 3.02.1: I would recommend changing this to read "Waivers requested for the sole purpose to avoid violations of the Standards for Accreditation shall not be granted."

Division Response: Recommended language adopted. **Non-substantive change made.**

Comment(4): Section 3.04.8: There appears to be an extra section symbol here. Section 5.01.1.1: "Required" should be "requires". Section 6.02: There is a "a" missing from before "Standard". In Section 6.05.4, there appears to be an object missing here so I would recommend changing this to read with "The district's Extension Request must" or "The Extension Request from the district must". In Section 6.05.4.1, there is an extra "5" at the very end of the reference to 6.05.4.

Division Response: Changes made to correct errors. **Non-substantive changes made.**

Comment(5): Section 4.02: For consistency with other rules, I would recommend changing this to "by the chair of the State Board."

Division Response: Comment considered. **No change made.**

Comment(6): Section 4.03.2: I would recommend changing this to read, "A district that does not provide materials as required by Section 4.03.1 of these Rules or that wishes to present documents in addition to those the district submitted under Section 4.03.1 of these Rules may only use the desired presentation or additional documents with the permission of the State Board."

Division Response: Comment considered. **No change made.**

Comment(7): Section 6.01: To make it clear that the expiration of the waiver is based on the date the repeal of the statute/rule is effective rather than potentially on the date the repeal is voted upon, I would recommend changing this to read "expires on the date the repeal becomes effective."

Division Response: Recommended language adopted. **Non-substantive change made.**

Comment(8): Section 6.05.1: I would recommend changing this to read "The Extension Request Form shall be available on the Division's website" to more closely match the language in 3.04.1.

Division Response: Recommended language adopted. **Non-substantive change made.**