

Diamond Cut Performing Arts Academy

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Information provided by Applicant is in italics.

Diamond Cut Performing Arts Academy 2020 Open Enrollment Application

Note: This applicant has cited outdated versions of the Standards for Accreditation throughout. Applicant was provided with a copy of the 2018 Standards during training. Applicant needs to review the current version of the Standards to determine which, if any, sections it needs to waive. Applicant has also cited repealed and outdated rules. Rationales are incomplete.

1. Consolidation, Annexation, and Formation

Statutes: Ark. Code Ann. § 6-13-1401 et seq.

Standard: Consolidation, Annexation, and Formation

ADE Rules: None

Exemption from this portion of the Education Code to the extent that its provisions are generally not applicable in the open-enrollment charter school context.

Legal Comments: Ark. Code Ann. § 6-13-1401 et seq. does not apply to open-enrollment charter schools, therefore no waiver is necessary. There is no Standard “Consolidation, Annexation, and Formation.”

2. School Elections

Ark. Code Ann. § 6-14-101 et seq.

Standard: School Elections

Rule: None

Exemption from this portion of the Education Code to the extent that its provisions are generally not applicable in the open-enrollment charter school context. Board of Directors will be voted on by the Charter Management Organization Board of Directors.

Legal Comments: There is no Standard for Accreditation “School Elections.” Please refer to note at the top of this document.

3. Facilities

Ark. Code Ann. § 6-21-117

Standard: Leased Academic Facilities

Rule: None

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Diamond Cut Performing Arts Academy seeks exemption from this portion of the Education Code to the extent that it requires that facilities leased by Diamond Cut Performing Arts Academy to conform to the school facility standards defined in the Arkansas School Facility Manual. Considering initial enrollment size, it will be difficult to financially follow through with this requirement. The applicant ensures that any and all facilities that it leases for academic purposes shall meet the requirements of all state and local health and safety codes, the Americans with Disabilities Act, and the Individuals with Disabilities Education Act.

Legal Comments: No rationale has been provided for a waiver of § 6-21-117(1) or (3)-(5). Further, the statute allows a waiver commensurate with the Arkansas School Facility Manual granted by the Commission for Arkansas Public School Academic Facilities and Transportation. Does the Applicant intend to follow all laws related to displaying the Arkansas and US flag, and having a defibrillator?

4. Alternative Learning Environment

Ark. Code Ann. § 6-15-1005(b)(5)

Ark. Code Ann. § 6-18-503(a)(1)(C)(i)

Ark. Code Ann. § 6-48-101 et seq.

Standards; 19.03, 19.04

ADE Rules: Section 4.0 Rules Governing Special Needs—Alternative Learning Environment

Diamond Cut Performing Arts Academy will strive to provide an individualized approach to students by an alternative approach made possible by the small-sized high school environment. Diamond Cut Performing Arts Academy embodies many of the practices described in the Exemplary Practice in Alternative Education: Indicators of Quality Programing.

Legal Comments: Please see comment at the top of this document regarding the listed Standards for Accreditation. Applicant should confirm it requests a waiver of Section 4.0 of the DESE Rules Governing Student Special Needs Funding as there are no rules governing “Special Needs.” Only a waiver of Ark. Code Ann. § 6-48-102 and 103 is necessary, rather than the entire chapter. Rationale does not provide examples of how Applicant “embodies many of the practices described in the *Exemplary Practice in Alternative Education: Indicators of Quality Programing.*” Applicant is asking for a waiver of ALE, so it is unclear how the program will meet the practices described in the document. In 17(g) in the application, it seems the Applicant misunderstood the prompt or has not provided enough information for Legal to

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determine how the Applicant plans on providing ALE services. Applicant should provide additional rationale on how it plans to meet the needs of students who need alternative learning environments, with special attention to those students who may be unable to function in the regular classroom environment, including students whose behavior interferes with their own learning, or the educational process of other students.

5. Board of Directors

Ark. Code Ann. § 6-13-1303

Ark. Code Ann. § 6-13-620

Ark. Code Ann. § 6-13-619

Ark. Code Ann. § 6-13-611

Standards: None

Rules: 4.00 School Boards and Rezoning

This waiver exempts Diamond Cut Performing Arts Academy from this portion of the Education Code to the extent that its provisions relating to board size, qualifications, elections, duties, powers, terms, meeting location, and vacancies are: (a) generally not applicable in the open-enrollment charter school context, and/or (b) otherwise outlined in Dr. Anthony D. Bland Foundation, Inc. by-laws. Exemption from this portion of the Education Code to the extent that it requires a vote by “certified employees” before the Board of Directors may adopt a policy for implementing site-based decision making in the school district, in light of the waiver request that is being made concerning certified employees. Instead, Diamond Cut Performing Arts Academy will require a vote by classified employees” as defined in Section 6-13-1302.

Legal Comments: Applicant should provide additional information as to why a waiver of Ark. Code Ann. § 6-13-1303 is necessary and review Ark. Code Ann. § 6-13-1301 et seq. to determine if additional waivers are necessary. No rationale for a waiver of Ark. Code Ann. § 6-13-611(a)(5) has been provided. It appears Applicant needs a waiver of Ark. Code Ann. § 6-13-612(c) and 613. Applicant should review Ark. Code Ann. § 6-13-629(a)(2)(C) as it might need a waiver as it applies to the method of filling the vacancy. Applicant needs a waiver of Ark. Code Ann. § 6-13-615, 616(a), and 618. No rationale for a waiver of Ark. Code Ann. § 6-13-619 or 620 has been provided. Applicant needs waivers of Ark. Code Ann. § 6-13-630 and 631. Applicant should review Ark. Code Ann. § 6-13-634 to determine if the section needs to be waived. There is no ADE Rule Governing “School Boards and Rezoning.” Applicant should confirm it intended to request a waiver of the DESE Rules For Compliance With Ark. Code Ann. § 6-13-631 and For Withholding Aid From School Districts Not in Compliance With Ark. Code Ann. § 6-13-631. Applicant needs a waiver from the entire rule, not just Section 4.0. Applicant should confirm it will meet the requirements of the Arkansas Freedom of Information Act. I have additional concerns about the governing structure of the school. Please see end of document.

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6. Salaries and Compensation

Ark. Code Ann. § 6-17-2201 et seq.

Ark. Code Ann. § 6-17-2401 et seq.

Ark. Code Ann. § 6-17-802

Ark. Code Ann. § 6-17-908

Ark. Code Ann. § 6-21-303

Standards: None

Rules: 1.00-3.00 School Election Expense Reimbursement

APPLICANT SEEKS exemption from this portion of the Education Code. Instead, the Board of Directors for Diamond Cut Performing Arts Academy will adopt personnel policies, including, but are not limited to, the following terms and conditions of employment; salary schedule, fringe benefits, and other compensation issues; annual school calendar, including workdays and holidays; evaluation procedures; leave; grievance procedures; termination or suspension; reduction in force; and assignments. Diamond Cut Performing Arts Academy will provide compensation that is competitive with local public-school districts. Diamond Cut Performing Arts Academy reserves the right to determine a specific salary by taking into account the teacher's years of experience, current salary, skill, education, and other qualifications. Diamond Cut Performing Arts Academy seeks exemption from this portion of the Education Code to the extent that it requires insurance or other fringe benefits to be approved by a majority of the teachers in the school district. Instead, the provisions of insurance or other fringe benefits will be considered and provided pursuant to action by the Diamond Cut Performing Arts Academy Board of Directors.

Legal Comments: Applicant has provided no rationale for a waiver of Ark. Code Ann. § 6-21-303, therefore no waiver is necessary. No rationale has been provided for a waiver of Ark. Code Ann. § 6-17-908, therefore no waiver is necessary. This rationale is not tailored to these waivers. Applicant should explain why it will not comply with the Teacher Minimum Salary Act. Applicant should confirm it will follow all minimum wage, state and federal, requirements to the extent they apply. The requested Rule is not related to the rationale in any way, therefore no waiver is necessary. No waivers have been requested that relate to grievance procedures, termination, suspension, evaluation, annual school calendar, benefits, etc. as stated in the rationale.

7. Teacher Licensure

Ark. Code Ann. § 6-15-1004

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Ark. Code Ann. § 6-17-1302

Ark. Code Ann. § 6-17-201 et seq.

Ark. Code Ann. § 6-17-301

Ark. Code Ann. § 6-17-309

Ark. Code Ann. § 6-17-401 et seq.

Ark. Code Ann. § 6-17-902

Ark. Code Ann. § 6-17-919

Ark. Code Ann. § 6-17-101 et seq.

Standards; 15.03

Rules: Sections 1-6.3.0 Educator Licensure

Diamond Cut Performing Arts Academy seeks exemption from this portion of the Education Code to the extent that it requires teachers to be certified. As such, Diamond Cut Performing Arts Academy will have the flexibility to identify and hire those individuals best suited to facilitate the school's unique educational program. Diamond Cut Performing Arts Academy ensures that it will hire Arkansas Highly Qualified teachers. Diamond Cut Performing Arts Academy seeks exemption from this portion of the Education Code to the extent that it requires teachers to be certified. As such, Diamond Cut Performing Arts Academy will have the flexibility to identify and hire those individuals best suited to facilitate the school's unique educational program. Diamond Cut Performing Arts Academy ensures that it will hire Arkansas Highly Qualified teachers. Diamond Cut Performing Arts Academy seeks exemption from this portion of the Education Code. Instead, the Diamond Cut Performing Arts Academy Campus Director will be employed on an "at-will" basis and will not be required to hold a valid supervisory or administrative certificate. In addition to identifying a Campus Director with the requisite skills and experience in education and management, Diamond Cut Performing Arts Academy will ensure that its Campus Director will be appropriately qualified to lead the school through extensive training in the school's educational methodology. Diamond Cut Performing Arts Academy seeks exemption from this portion of the Education Code. Instead, Diamond Cut Performing Arts Academy will employ all employees on an "at-will" basis. This means that employment with Diamond Cut Performing Arts Academy is voluntarily entered into, and the employee is free to resign at will, at any time, with or without notice or cause. Similarly, Diamond Cut Performing Arts Academy may terminate the employment relationship at will, at any time, with or without notice or cause, so long as there is no violation of applicable federal or state law.

Legal Comments: Applicant should provide additional rationale on how it will hire qualified teachers and should confirm it is aware that no waiver of special education licensure is permitted. No rationale for a waiver of Ark. Code Ann. § 6-17-201, 202, 203, 205, 206, 207, 208, 209, 210, or 211 has been provided, therefore no waiver is necessary. If the Applicant wishes to waive the provisions about the grievance policy, applicant should provide information about its grievance procedure. Applicant should provide additional rationale on how the Applicant will have teacher input in the personnel policies. No rationale has been provided for Ark. Code Ann. § 6-17-302(b)-(d). Only a waiver of Ark. Code Ann. §

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6-17-401 is necessary, not the entire chapter. No rationale has been provided for the entire chapter and the chapter contains prohibited waivers. Similarly with Ark. Code Ann. § 6-17-101 et seq., no rationale has been provided for any of these code sections and this chapter contains prohibited waivers. No waiver has been requested for administrator licensure as described in the rationale. No waiver of the sections of the ADE Rules Governing Educator Licensure is necessary. If the Applicant will have licensed teachers teaching outside of their licensure area, Applicant will need a waiver of Section 7 only. If not, no waiver is necessary.

8. Personnel Policies

Ark. Code Ann. § 6-17-1201 et seq.

Ark. Code Ann. § 6-17-1301 et seq.

Ark. Code Ann. § 6-17-203

Ark. Code Ann. § 6-17-211

Ark. Code Ann. § 6-17-2301 et seq.

Ark. Code Ann. § 6-17-117

Ark. Code Ann. § 6-17-114

Ark. Code Ann. § 6-17-111

Standards: None

Rules: 4.0-8.0 School District Requirements for Personnel Policies, Salary Schedules, Minimum Salaries, and Documents Posted to District Websites

Diamond Cut Performing Arts Academy seeks exemption from this portion of the Education Code. Instead, the Board of Directors for Diamond Cut Performing Arts Academy will adopt personnel policies, including, but are not limited to, the following terms and conditions of employment; salary schedule, fringe benefits, and other compensation issues; annual school calendar, including work days and holidays; evaluation procedures; leave; grievance procedures; termination or suspension; reduction in force; and assignments. Diamond Cut Performing Arts Academy employees will be employed on an “at-will” basis and will be paid in accordance with the Fair Labor Standards Act, and in accordance with the personnel policies approved by Board of Directors. Diamond Cut Performing Arts Academy seeks exemption from this portion of the Education Code. As such, minimum sick leave for Diamond Cut Performing Arts Academy teachers will be addressed in the Employee Handbook and will be given at a set rate and not accumulated on a monthly basis. Diamond Cut Performing Arts Academy seeks exemption from this portion of the Education Code to the extent that it requires teachers to be certified and contracted. As such, Diamond Cut Performing Arts Academy will have the flexibility to identify and hire those individuals best suited to facilitate the school’s unique educational program. Diamond Cut Performing Arts Academy ensures that it will hire “highly qualified” teachers on an “at-will” basis. Diamond Cut Performing Arts Academy requires teachers to be contracted if they are assigned to more than sixty (60) minutes of non-instructional duties per week. Instead, Diamond Cut Performing Arts Academy requests that the

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time be increased to two-hundred forty (240) minutes. Such a revision recognizes that open-enrollment charter schools are often required to operate on a more limited budget than their traditional public school counterparts, requiring teachers to perform both instructional and non-instructional duties to achieve efficient and economical operation of the school. The individualized curriculum utilized by Diamond Cut Performing Arts Academy dramatically reduces the time needed by a teacher for instructional planning.

Legal Comments: How does the Applicant plan to ensure teachers have proper breaks and planning time if they are waiving planning periods, duty free lunch, and non-instructional duties? No rationale has been provided for a waiver of Ark. Code Ann. § 6-17-1203 or 6-17-1303. In a previous waiver request, Applicant requested a waiver of Ark. Code Ann. § 6-17-201 et seq., which includes 6-17-211 and 6-17-203. Applicant should clarify which sections of Ark. Code Ann. § 6-17-201 et seq. it needs. No rationale has been provided for a waiver of Ark. Code Ann. § 6-17-211. See additional comments under #7 above. No rationale has been provided for a waiver of Ark. Code Ann. § 6-17-2301, 2302, or 2306. Applicant has cited an outdated version of the Rules. Applicant should review the DESE Rules Governing Documents Posted to School District and Education Service Cooperative Websites. Applicant should review the 2020 version of the Standards for Accreditation to determine which if any Standards need to be waived.

9. Flexible Schedule

Ark. Code Ann. § 6-16-102

Ark. Code Ann. § 6-10-106

Standards: 10.02, 14.03, 9.03.4, 10.01.4

ADE Rules: Mandatory Attendance Requirements for Students in Grades Seventh through Twelve

Exemption from this portion of the Education Code because the school's education program requires flexibility in addressing the unique needs of its at-risk student population by having students complete courses required to gain their High School Diploma. Students work on an individualized pace using a mastery based program that will help them gain credit faster than 120 clock hours. As such, Diamond Cut Performing Arts Academy request that "school day" be defined as a day in which classes are in session and students receive at least four (4) hours of instructional time. Students have the ability to choose either the Am or PM session. The instructional day will be extended up to and beyond 6 hours for students in need of additional assistance.

Legal Comments: Applicant has cited to a previous version of the Standards. Please see note at top of document. The ADE Rules Governing Mandatory Attendance Requirements for Students in Grades 7-12 have been repealed in 2017, so no waiver is necessary. Applicant

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does not need a waiver of Ark. Code Ann. § 6-16-102(a)(5). No rationale has been provided for a waiver of Ark. Code Ann. § 6-16-102. Regarding the 120 clock hour requirement, the Standards specifically allow credit to be awarded for a course which meets for a minimum of 120 clock hours OR based on subject matter competency in compliance with the public school's approved plan under Ark. Code Ann. § 6-15-216. If the Applicant is not meeting 120 clock hours or competency based, how is the Applicant awarding credit? How will the Applicant meet all academic standards and graduation requirements with only 4 hours of instructional time per day?

10. Administrators

Ark. Code Ann. § 6-13-109

Ark. Code Ann. § 6-17-427

Ark. Code Ann. § 6-17-302

Ark. Code Ann. § 6-15-2302

Standards: 15.01, 15.02

Rules: Superintendent Mentoring Program, 1-5 Business Manager Qualifications

Instead, the Diamond Cut Performing Arts Academy Superintendent/Executive Director and Principal/Campus Director will be employed on an "at-will" basis and will not be required to hold a valid supervisory or administrative certificate. In addition to identifying a Superintendent/Executive Director and Principal/Campus Director with the requisite skills and experience in education and management, Diamond Cut Performing Arts Academy will ensure that its superintendent/executive director and principal/campus director is appropriately qualified to lead the school through extensive training in the school's educational methodology.

Legal Comments: Does the proposed executive director have experience as a superintendent of a school? If not, what is the rationale behind a waiver of the superintendent mentoring program? That concern is amplified when Applicant requests a waiver of duties, licensure, and business manager qualifications. No rationale has been provided for Ark. Code Ann. § 6-13-109(b). Only a waiver of Ark. Code Ann. § 6-17-302(a) is necessary. No rationale has been provided for a waiver of Ark. Code Ann. § 6-15-2302 or the Business Manager Qualifications Rules. Further, the rationale states "extensive training in the school's educational methodology." Applicant needs to explain what that means.

General Comments: I did not see a waiver of the TESS/LEADS systems, despite several rationales describing a waiver from evaluation requirements. I did not see waivers of the Teacher Fair Dismissal Act or the Public Employee Fair Hearing Act. I saw no waivers of

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Class Size and Teaching Load, Gifted and Talented, School Counselors, Nursing Staff, or Library Media. In different places in the application, Applicant has made varying representations about the required licensure of library media specialists, school counselors, nurses, and GT coordinators. Applicant needs to clearly state whether it will require certified people in those positions. Applicant should confirm it plans to meet all of those requirements. Applicant needs to provide more information on the governing structure. I have serious concerns about the conflicts of interest. The proposed Executive Director is also the organizer and a board member of the Sponsoring Entity, which is a conflict. One of the proposed local school board members also serves on the board of the Sponsoring Entity, which is a conflict. Only four local board members are listed, which is concerning. I have concerns that the enrollment cap is set at 1500, but the Applicant only expects to have 200 students in year 1. Why is the enrollment cap set at 1500? The budget is not based on 200 student enrollment. I am concerned that the Applicant plans to have all grades open in year one. The Executive Director salary is very high for a small school, about \$750 per student, which is one of the highest, if not the highest, per student in the State.

Desegregation Analysis: Fully responsive