

**Arkansas Department of Education**  
**Proposed Rules Governing the Distribution of Student Special Needs Funding and the**  
**Determination of Allowable Expenditures of Those Funds**  
~~September 2007~~ April 2010

**1.00 Authority**

1.01 The Arkansas State Board of Education's authority for promulgating these Rules is pursuant to Ark. Code Ann. §§ 6-11-105, 6-18-508, 6-18-509, and 6-20-2301 et seq. ~~5. and Acts 811 and 1590 of 2007.~~

1.02 These Rules shall be known as the Arkansas Department of Education Rules Governing the Distribution of Student Special Needs Funding and the Determination of Allowable Expenditures of Those Funds.

**2.00 Purpose**

2.01 The purpose of these Rules is to distribute student special needs funding and define the allowable expenditures of those funds.

**3.00 Definitions – For purposes of these Rules, the following terms mean:**

3.01 "Alternative Learning Environment (ALE)" is a student intervention program in compliance with Ark. Code Ann. §§ 6-18-508 and 6-18-509 and these Rules that seeks to eliminate traditional barriers to ~~student learning~~ for students.

3.02 "Average Daily Membership (ADM)" is the total number of days of school attended plus the total number of days absent by students in grades kindergarten through twelve (K-12) during the first three (3) quarters of each school year divided by the number of school days actually taught in the school district during that period of time rounded up to the nearest hundredth.

3.02.1 In those instances in which the ADM for ~~less~~ fewer than three (3) quarters is specified, the number of days used in the calculation shall be the days in the specified period of time.

3.02.2 As applied to these Rules, students who may be counted for ADM are:

3.02.2.1 Students who reside within the boundaries of the school district, ~~and who~~ are enrolled in a public school operated by the school district, and are enrolled in a curriculum that fulfills the requirements established by the State Board of Education (State Board) under the Standards for Accreditation of Arkansas Public Schools and School Districts;

3.02.2.2 Legally transferred students living outside the school district but — are attending a public school in the school district under a provision of the Arkansas Code ~~or Rules~~ and are enrolled in a curriculum that fulfills the requirements established by the State Board under the Standards for Accreditation of Arkansas Public Schools and School Districts.

3.02.2.3 Open-enrollment public charter school students who are enrolled in a curriculum that fulfills the requirements established by the State Board under the Standards for Accreditation of Arkansas Public Schools and School Districts; or

3.02.2. ~~34~~ Students who are eligible to attend and who reside within the boundaries of a school district and ~~who~~ are enrolled in the Arkansas National Guard Youth Challenge Program, so long as the students are participants in the program.

3.03 “Bonus” is a non-recurring payment to a school district employee, which shall not be considered an addition to the employee’s contractual salary amount.

3.04 “Chronically Underperforming School” is a public school that does not meet adequate yearly progress under the No Child Left Behind Act of 2001, 20 U.S.C. § 6301 et seq., as it existed on July 1, 2009, for three (3) or more consecutive years.

3.04-~~05~~ “Classroom Teacher” is an individual who is required to hold a teaching license from the Arkansas Department of Education (Department) and who is working directly in instruction with students in a classroom setting for more than seventy percent (70%) of the individual's contracted time; a guidance counselor; or a librarian.

3.06 “Coordinated School Health Coordinator” is an individual that coordinates the implementation or the Coordinated School Health model components, facilitates the Wellness Priority within the ACSIP plan with a minimum of a bachelor’s degree (Master’s preferred) in either the field of education, nursing, health services administration, social services, psychology/mental health services or nutrition. The coordinator will be in addition to other school health staff or positions.

3.07 “Coordinated School Health” (CSH) is an effective system designed to connect health (physical, mental/emotional and social) with education. This coordinated approach improves students’ health and their capacity to learn through the support of families, communities and schools working together. The CSH approach consists of eight major components. Although these components are listed separately, it is their composite that allows CSH to have significant impact. The eight components include: health education, physical education/physical activity, health services, nutrition services, health promotion for staff, counseling and psychological services, healthy school environment, and student/parent/community involvement.

3.05-~~08~~ “English Language Learners (ELL)” are students identified by the State Board of Education (State Board) as not proficient in the English language based upon approved English proficiency assessment instruments ~~administered annually in the fall of the current school year, which assessments measure oral, reading, and writing.~~ speaking, listening, and comprehending English. ~~proficiency.~~

- ~~3.06~~<sup>09</sup> “Eligible Alternative Learning Environment Student” is a student who meets the qualifications of Section 4.01, is in a program that meets the qualifications of Section 4.02, has been enrolled ~~attended in~~ an eligible ALE for a minimum of twenty (20) consecutive days per school year and meets the requirements outlined in Section 4.00.
- 3.10 “Excess National School Lunch Act Funds” are current year National School Lunch Act Funds remaining after a district has met the educational needs of students that are to be used to supplement teacher salaries.
- 3.11 “Experienced-based Field Trip” A student field trip which culminates an academic content unit directly tied to the Arkansas Frameworks that includes research-based activities.
- 3.12 “Human Service Worker” shall collaborate and provide information, resources, services, and referrals, to the district, LEA, parents, and students in a variety of activities, trainings, and assessments concerning the physical, mental/emotional, and social health of the child.
- 3.13 “Licensed Mental Health Counselor,” or L.M.H.C., hold a master’s degree from a graduate program in the field. They may render mental health care services to individuals, families or groups. L.M.H.C.s use therapeutic techniques to define goals and develop treatment plans aimed toward prevention, treatment, and resolution of mental and emotional dysfunction. Mental Health Professionals are licensed by the specific state boards corresponding with their licensure (i.e., Board of Examiners [LPCs, LACs], Board of Psychology [PhDs, LPEs], Social Work Licensing Board [LCSW, LMSW, LSW], which also monitors professional conduct.
3. ~~07~~<sup>14</sup> “NSLA” - National School Lunch Act.
- ~~3.08~~<sup>15</sup> “National School Lunch Students” are those students from low socio-economic backgrounds as indicated by eligibility for free or reduced-priced meals under the National School Lunch Act as determined on October 1 of ~~the~~ each previous school year and submitted to the Department, unless the district participates in the NSLA Provision 2 Program.
- 3.16 “Open Enrollment Public Charter School” is a public school operating under the terms of a charter granted by the State Board and is a local educational agency under the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 7801, as it existed on April 10, 2009.
- ~~3.09~~<sup>17</sup> “Previous Year” is the school year immediately preceding the school year in which funds are allocated.
- ~~3.10~~<sup>18</sup> “Professional ~~development~~ Development” is a coordinated set of professional development activities that improve the knowledge of teachers, administrators, and paraprofessionals concerning effective instructional strategies, methods, and skills for improving teaching practices, and for all employees to improve knowledge, awareness, and resources in physical/mental/emotional/social health-related issues for the purpose of improving ~~and~~ student academic achievement. Training activities for school bus drivers may also be included.

3.40~~18~~.1 Professional ~~development~~ Development shall result in individual school-wide, and district-wide improvement designed to ensure that all students demonstrate proficiency in the state academic standards.

3.40~~18~~.2 Professional ~~development~~ Development should be based on research, and be standards-based and continuous.

3.44~~19~~ "Provision Two (2) School District" is a school district participating in the National School Lunch Program under 42 U.S.C. § 1759a, as interpreted in 7 C.F.R. § 245.9.

3.19 "Provision Two (2) School District Base Year" means the last school year for which eligibility determinations were made and meal counts were taken by type.

3.20 "Scholastic Audit" is a comprehensive review of the learning environment, organization efficiency, and academic performance of schools and districts.

3.42~~21~~ "School District" or "District" is a geographic area with an elected board of directors that qualifies as a taxing unit for purposes of *ad valorem* property taxes under ~~Ark. Code Ann. §26-1-101 et seq.~~ Title 26 of the Arkansas Code, and whose board conducts the daily affairs of public schools pursuant to the supervisory authority vested in it by the General Assembly ~~via~~ and Title 6 of the Arkansas Code. For the purposes of these Rules, all references to "school district" or "district" include open enrollment charter schools.

3.22 "School Resource Officer" (SRO) is a sworn law enforcement officer assigned to a school on a long-term basis. The SRO is specifically trained in and performs three main functions, law enforcement officer; law related counselor; and law related educator. In addition the SRO works in collaboration with the school and the community as a resource.

3.43~~23~~ "School Year" is the year beginning July 1 of one calendar year and ending June 30 of the next calendar year.

3.24 "Students at Risk" are those students demonstrating an ongoing persistent lack of attaining proficiency levels in literacy and mathematics.

3.25 "Social Workers" have an undergraduate or graduate degree in social work or a related mental health field, and are trained in psychotherapy and social work techniques. Family therapists and employee assistance program counselors are often social workers. Social workers who work in private agencies or independent practice must hold state licenses from the Board of Registration of Social Workers. An L.C.S.W (Licensed Certified Social Worker) or a L.S.W. (Licensed Social Worker) may practice in an agency setting under proper supervision. Professional conduct is monitored by the State of Arkansas Social Work Licensing Board.

3.26 "Supplement to Teacher Salaries" is the use of excess NSLA funds to supplement teacher salaries as either a bonus, as defined at 3.03, or to provide an amount of compensation above the amount required by the minimum teacher salary compensation schedule, as defined at Ark. Code Ann. § 6-17-2403.

3.14~~27~~ "Technology" is any equipment for instructional purposes that are electronic in nature including, but not limited to, computer hardware, computer software, internet connectivity, and distance learning.

#### **4.00 Special Needs - Alternative Learning Environment (ALE)**

##### 4.01 Eligible ALE Students

4.01.1 An eligible ALE student shall exhibit two (2) or more of the characteristics identified in [Section 4.01.1.1](#) and [Section 4.01.1.2](#). Students will not be placed in the ALE based on academic problems alone.

4.01.1.1 –Students placed at risk, though intelligent and capable, typically manifest one or more of the following characteristics:

- Disruptive behavior
- Drop out from school
- Personal or family problems or situations
- Recurring absenteeism
- Transition to or from residential programs

4.01.1.2 –Situations that negatively affect the student's academic and social progress may include, but are not limited to:

- Ongoing, persistent lack of attaining proficiency levels in literacy and mathematics
- Abuse: physical, mental, or sexual
- Frequent relocation of residency
- Homelessness
- Inadequate emotional support
- Mental/physical health problems
- Pregnancy
- Single parenting

##### 4.02 Eligible ALE Programs

4.02.1 An eligible ALE program shall meet the following guidelines:

4.02.1.1 Have students taught by a currently licensed teacher. If course credit is granted, the teacher must be highly qualified. Newly hired teachers in these designated districts will have three years from the date of hire to become highly qualified as required by the federal No Child Left Behind Act of 2001.

- 4.02.1.2 Have a student/teacher ratio in grades Kindergarten through six (K-6) of no more than ten (10) to one (1). If a paraprofessional is employed in addition to a licensed supervisor, the student/teacher ratio shall be no more than twelve (12) to one (1).
- 4.02.1.3 In a middle school where the grade configuration includes grades five (5) and/or six (6), the fifteen (15) to one (1) student/teacher ratio may be utilized.
- 4.02.1.24 Have a student/teacher ratio in grades seven through twelve (7-12) of no more than fifteen (15) to one (1). If a paraprofessional is employed in addition to a licensed supervisor, the student/teacher ratio shall be no more than eighteen (18) to one (1).
- 4.02.1.45 Provide each alternative learning student with access to the services of a school counselor or a mental health professional, a nurse, and support services provided to other students.
- 4.02.1.56 Coordinate the ALE with state and federal student assistance programs.
- 4.02.1.67 Submit a description of the ALE ~~on a form developed by the Department. This description shall be included in the districts' Arkansas Comprehensive School Improvement Plan (ACSIP).~~
- 4.02.1.7-8 Have an Alternative Education Placement Team ~~in place in order to~~ determine student placement in the ALE. This team ~~should~~ shall include the referring school counselor, ~~the ALE administrator director or~~ and the building principal, ~~a~~ A parent or legal guardian and the student's a regular classroom teacher (s) should be included in the student placement determination.
- 4.02.1.89 Maintain documentation of the presence of the characteristics listed in the student's plan.
- 4.02.1.9-10 Provide that the ALE shall not be punitive but should provide the guidance, counseling, and academic support to enable students who are experiencing emotional, social or academic problems to continue to make progress toward educational goals either in the traditional educational system or the General Educational Development (GED) Program.
- 4.02.1.10-11 Provide that computer programs when used in the ALE setting will supplement teacher instruction.
- 4.02.1.14-12 Develop an agreement with the parent or guardian, teacher or ALE director, and student outlining the responsibilities of the school, parent, and the student to provide assurance that the plan for each student is successful.
- 4.02.1.14-13 Provide a curriculum including mathematics, science, social studies, and language arts aligned with the regular classroom instruction or with the standards for the tests of the GED.

4.02.1.43-~~14~~ Develop exit criteria on which to base a student's return to the regular program

4.02.1.44-~~15~~ Require ALE staff to meet the same professional development requirements as other certified staff.

4.02.1.45-~~16~~ The Department shall monitor ALEs as required in compliance with Ark. Code Ann. § 6-18-509.

4.02.1.17 All districts within an agreed upon consortium must submit the contract agreement to ADE by October 1 of each school year.

4.02.1.18 All students attending a consortium shall follow the lead district's school calendar.

4.02.1.19 Meals provided at remote ALE facilities shall follow the Arkansas Child Nutrition guidelines or shall be approved by the Arkansas Department of Education's Child Nutrition Section.

#### 4.03 ALE Funding

4.03.1 The ALE funding amount shall be the amount required by law times the district's eligible ALE students' ~~s~~ full time equivalent (FTE) in the previous school year as defined in ~~this Rule~~ these Rules.

4.03.2 -An ALE student shall be counted as no more than one student for ALE funding purposes.

4.03.3 An eligible ALE student's FTEs shall be determined by the number of hours taught in an eligible ALE each day divided by 6 hours, times the number of days an eligible student attends the ALE, plus the number of days absent, divided by the number of school days actually taught in the school year.

4.03.3.1 Alternative Learning Student is a student who has ~~attended~~ been enrolled in an eligible ALE for a minimum of twenty (20) consecutive days per school year.

4.03.3.2 Full Time Equivalent (FTE) Alternative Learning Student is an alternative learning student who has at least six (6) hours per day of student/teacher interaction time in the ALE, and attends the ALE for the entire school year.

4.03.4 ALE funding is restricted state aid.

4.03.5 ALE funding shall be spent on eligible ALE programs ~~activities~~ identified in ~~this Rule~~ these Rules except as otherwise allowed by law or rule.

4.03.6 ALE funding may be carried over from one fiscal year to the next but these funds shall remain restricted to the priority areas as defined in ~~this Rule~~ these Rules.

## 5.00 Special Needs - English Language Learners (ELL)

5.01 The ELL funding amount shall be the amount required by law times the district's identified English Language Learners in the current school year.

5.01.1 The number of identified ELL students shall be a total of all students identified by the State Board as not proficient in the English language based upon approved English proficiency assessment instruments.

5.01.2 Documentation to be used for the calculation of the number of identified ELL students must be submitted to the Department no later than November 30 of each school year.

5.01.3 An ELL student shall be counted as no more than one student for ELL funding purposes.

5.02 School districts shall maintain documentation of each student identified as an ELL.

5.03 For ELL funding purposes, State-approved English proficiency assessment instruments include:

5.03.1 LAS (Language Assessment Scales)

~~5.03.2 IDEA (IPT-Idea Proficiency Test)~~

~~5.03.3 Woodcock-Munoz~~

~~5.03.4~~ 5.03.2 Maculaitis Assessment of Competencies

~~5.03.5 Language Assessment Battery~~

5.03.2 English Language Development Assessment (ELDA) English Language Proficiency Screener

5.04 ELL funding shall be expended for the following eligible activities:

5.04.1 Salaries for ELL-skilled instructional services (not supplanting district financial obligations for providing teachers for ELL students).

5.04.2 Funds for teacher training, consultants, workshops, ELL course work including Department sponsored training programs.

5.04.3 Released-time for ~~planning program selection, and~~ ELL program development.

5.04.4 Selection and purchase of language-appropriate instructional and supplemental (enrichment) materials for ELL students -(including computer-assisted technology and library materials).

5.04.5 Health services, ~~c~~ounseling services, community liaison staff with language and cultural skills appropriate to the ELL population.



5.04.6 Assessment activities, which ~~address~~ include test administration, identification, placement, and review of ELL student academic progress, as well -as evaluation activities to determine the effectiveness of the district's ELL program.

5.04.7 Funds for the implementation of supplemental instructional services for ELL students.

5.04-05 ELL funding may be carried over from one fiscal year to the next, but these funds shall remain restricted to those priority areas defined in ~~this Rule~~ these Rules.

5.05-06 A description of ELL activities and funding shall be included in the district's ~~Arkansas Comprehensive School Improvement Plan (ACSIP)~~.

**6.00 Special Needs - National School Lunch Act (NSLA)**

6.01 ~~The NSLA~~ National school lunch state categorical funding amount ~~under Ark. Code Ann. § 6-20-2305 (b) (4)~~ shall be determined by based on the district's total number of national school lunch students identified as eligible to participate in the NSLA Program for the immediately preceding school year determined under 3.15 of these Rules, divided by the district's total enrolled students for the immediately preceding school year. ~~The product shall be calculated to one tenth of one percent, and rounded up to the nearest whole number from five tenths or down to the nearest whole number from less than five tenths. If the school district is a Provision 2 district, this funding is based on the school district's percentage of national school lunch students submitted in the base year, multiplied by the number of enrolled students for the immediately preceding school year. NSLA funding for Provision 2 districts shall be determined as defined in Ark. Code Ann. § 6-20-2303 (12)(B)(i) and (ii). For determination of the per student amount of national school lunch state categorical funding, the percentage shall be calculated to one tenth of one percent, and rounded up to the nearest whole number from five tenths or down to the nearest whole number from less than five tenths~~

6.01.1 For school ~~Districts~~ districts in which with ninety percent (90%) or greater of the previous school year's enrolled students eligible ~~for the NSLA Program~~ are national school lunch students, shall receive per student national school lunch state categorical funding shall be the amount required by Ark. Code Ann. § 6-20-2305(b)(4)(A)(i) ~~law~~ for each student eligible for the NSLA Program.

6.01.2 For school ~~Districts~~ districts in which with less than ninety percent (90%) and ~~but~~ at least seventy percent (70%) of the previous school year's enrolled students eligible ~~for the NSLA Program~~ are national school lunch students, shall receive per student national school lunch state categorical funding shall be the amount required by Ark. Code Ann. § 6-20-2305(b)(4)(A)(ii) ~~law~~ for each student eligible for the NSLA Program.

6.01.3 For school ~~Districts~~ districts in which with less than seventy percent (70%) of the previous school year's enrolled students are national school lunch students, eligible ~~for the NSLA Program~~ shall receive per student national school lunch state categorical funding shall be the amount required by Ark. Code Ann. § 6-20-2305(b)(4)(A)(iii) ~~law~~ for each student eligible for the NSLA Program.

- 6.01.4 Districts must participate in the federal National School Lunch Program to receive NSLA Funding.
- 6.02 The district percentage of NSLA eligible students shall be determined from the Arkansas Public School Computer Network's Cycle 2 report for the previous school year.
- 6.02.1 The Child Nutrition Unit of the Department shall verify the Cycle 2 report for accuracy.
- 6.02.2 Adjustments to the Cycle 2 report shall be made by the Department based on documentation provided by the school district.
- 6.03 NSLA Growth Funding
- 6.03.1 The Department shall use the Cycle 2 enrollment data for the previous four years to calculate a three-year trend in district enrollment.
- 6.03.2 If a district has grown at least one percent for each of the three previous years, ~~they~~ it shall qualify for NSLA Growth Funding.
- 6.03.3 Districts that qualify for funding shall receive NSLA Growth Funding.
- 6.03.4 The funding shall be calculated as the three year average growth in enrollment multiplied by the district's previous year's percentage of students eligible for the NSLA Program multiplied by the per student funding amount determined in 6.01.
- 6.04 Transitional NSLA Funding Methods ~~Due to Percentage Changes in NSLA Students~~
- ~~6.04.1 Beginning with the 2007-2008 school year, the percentage of students eligible for free and reduced priced meals will be calculated by the Department of Education based on information validated by the Child Nutrition Section.~~
- ~~6.04.2 A comparison will be made between the percentage of students eligible for free and reduced priced meals in the most recent previous year and the year previous to that year.~~
- ~~6.04.3 Districts that have a change in the percentage of students eligible for free and reduced priced meals will be identified.~~
- 6.04.4 Beginning with the 2007-2008 school year, any school district that is to receive NSLA funding based on a different categorical amount of per student NSLA funding than was received the preceding school year, due to an increase or decrease in the percentage of NSLA students of the district's total October 1 enrollment as compared to the district's preceding school year's NSLA population, shall receive such increase or decrease in per student NSLA funding in three, one-third increasing or decreasing equal transition amounts over a three-year time period or until the district is receiving that amount of NSLA funding the district is legally entitled to receive as provided in Section 6.04.8 of this rule.

~~6.04.5 The three-year transition funding process will begin the year following the year in which the district's number of NSLA students meets, exceeds or falls below ninety percent (90%) but is greater than seventy percent (70%) or will begin the year following the year in which the district's number of NSLA students meets, exceeds or falls below seventy percent (70%) but is less than ninety percent (90%).~~

~~6.04.6 The total amount of NSLA funding will be determined based on the district's NSLA population as a percentage of the district's total October 1 enrollment.~~

~~6.04.7 A district's NSLA funding is based on the number of free and reduced priced students times the funding amount as established by the General Assembly.~~

~~6.04.8 When the annual calculation of the percentages meets the conditions outlined in Section 6.04.5 of this rule, then the total increase or reduction in the amount of NSLA funding due to be paid to the district will be increased or decreased by one third of the amount of increase or decrease in the first year of the transition, two-thirds of the amount of the increase or decrease in the second year of the transition, and by the full amount of the increase or decrease in the third year of the transition process.~~

~~6.04.9 No district shall be entitled to receive more or less per student NSLA Funding at the end of the transition process than is due to be paid to the district in NSLA funding as a result of the transition funding process.~~

6.04.1 Beginning with the 2009-2010 school year, if a school district receives, in the current school year, national school lunch state categorical funding under Ark. Code Ann. § 6-20-2305(b)(4)(A) that is based on a different per student amount of national school lunch state categorical funding than the school district received in the immediately preceding school year, due to a percentage change in national school lunch students, the Department shall adjust the funding to the school district in a transitional three-year period.

6.04.2 The amount of national school lunch state categorical funding under Ark. Code Ann. § 6-20-2305(b)(4)(A) shall be increased or decreased in each year of a three-year transition period by one-third (1/3) of the difference between the amount of national school lunch state categorical funding per student for the current year and the amount of national school lunch state categorical funding per student for the immediately preceding year, adjusted for changes to the funding rates in Ark. Code Ann. § 6-20-2305(b)(4)(A).

6.04.3 The method of transition for a school district that experiences a decrease in the amount of national school lunch state categorical funding per student under Ark. Code Ann. § 6-20-2305(b)(4)(A) is detailed using the following example of a decrease in national school lunch state categorical funding per student from \$1,488 in the immediately preceding year to \$992 in the current year:

*For illustrative purposes:*

- Year one (current year) of transition (decrease 1/3) – the transitioned amount of national school lunch state categorical funding per student is \$1,322.67 (\$1,488 - \$165.33).

- Year two of transition (decrease 1/3) – the transitioned amount of national school lunch state categorical funding per student is \$1,157.34 (\$1,322.67- \$165.33).
- Year three (final year) of transition (decrease 1/3) – the transitioned amount of national school lunch state categorical funding per student is \$992 (\$1,157.34 - \$165.34).

6.04.4 The method of transition for a school district that experiences an increase in the amount of national school lunch state categorical funding per student under Ark. Code Ann. § 6-20-2305(b)(4)(A) is detailed using the following example of an increase in national school lunch state categorical funding per student from \$992 in the immediately preceding year to \$1,488 in the current year:

For illustrative purposes:

- Year one (current year) of transition (increase 1/3) – the transitioned amount of national school lunch state categorical funding per student is \$1,157.33 (\$992 + \$165.33).
- Year two of transition (increase 1/3) – the transitioned amount of national school lunch state categorical funding per student is \$1,322.66 (\$1,157.33 + \$165.33).
- Year three (final year) of transition (increase 1/3) – the transitioned amount of national school lunch state categorical funding per student is \$1,488 (\$1,322.66 + \$165.34).

6.04.5 The method of transition for a school district that, within a three-year period, experiences both a decrease and an increase in the amount of national school lunch state categorical funding per student under Ark. Code Ann. § 6-20-2305(b)(4)(A) is detailed using the following two examples:

6.04.5.1 In the first example, a school district experiences an increase in national school lunch state categorical funding per student from \$992 in the immediately preceding year to \$1,488 in the current year, and a decrease to \$992 in the following year. In this instance, the transition is completed in two years rather than three.

For illustrative purposes:

- Year one (current year) of transition (increase 1/3) – the transitioned amount of national school lunch state categorical funding per student is \$1,157.33 (\$992 + \$165.33).
- Year two (final year) of transition (decrease 1/3) – the transitioned amount of national school lunch state categorical funding per student is \$922 (\$1,157.33 - \$165.33).

6.04.5.2 In the second example, a school district experiences a decrease in national school lunch state categorical funding per student from \$992 in the immediately preceding year to \$496 in the current year, no change in the second year, and an increase to \$992 in the third year. In this instance, the transition is completed in four years rather than three.

For illustrative purposes:

- Year one (current year) of transition (decrease 1/3) – the transitioned amount of national school lunch state categorical funding per student is \$826.67 (\$992 - \$165.33).

- Year two of transition (decrease 1/3) – the transitioned amount of national school lunch state categorical funding per student is \$661.34 (\$826.67- \$165.33).
- Year three of transition (increase 1/3) – the transitioned amount of national school lunch state categorical funding per student is \$826.67 (\$661.34 + \$165.33).
- Year four (final year) of transition (increase 1/3) – the transitioned amount of national school lunch state categorical funding per student is \$992 (\$826.67 + \$165.33).

6.05 Each school district ~~receiving with NSLA students funds~~ shall provide a ~~research based~~ research-based program(s) or purpose(s) for students scoring below proficiency eligible for NSLA funding in order to improve instruction and increase academic achievement of those students. This does not prohibit use of funds in performing schools to continue doing those strategies that are sustaining that performance.

6.05.1 Effective July 1, 2010, chronically underperforming schools shall develop and implement a comprehensive school improvement plan and shall use the school's National School Lunch state categorical funding (NSLA) to include, but not limited to:

6.05.1.1 Use of an Arkansas Scholastic Audit in school not meeting adequate yearly progress for three (3) or more consecutive years of School Improvement.

6.05.1.2 Use disaggregated school data to set academic targets in reading, writing, mathematics, and science.

6.05.1.3 Use improvement targets to define professional development needs related to content, instruction, differentiation, and best practices in educating special education students, gifted and talented students, English language learners, and other student subgroups as identified in need.

6.05.1.4 Develop interim building-level assessment to monitor student progress toward proficiency on the state benchmark assessments.

6.05.1.5 Develop a plan to immediately address gaps in learning

6.05.1.6 Examine and realign, as needed, school scheduling, academic support systems, and assignments of personnel to improve student achievement.

6.05.1.7 Design a plan for increasing parental knowledge and skill to support academic objectives.

6.05.1.8 Evaluate the impact of the before mentioned educational strategies on student achievement.

6.06 NSLA funding shall not be used to meet or satisfy the Arkansas Standards for Accreditation required by Ark. Code Ann. § 6-15-201 et seq. the Arkansas Minimum Teacher Salaries required by Ark. Code Ann. § 6-17-2403 except as otherwise allowed herein this section.

- 6.06.1 NSLA funding shall not be used to augment, replace, or supplement the mandatory requirements of the Arkansas Standards for Accreditation required by Ark. Code Ann. § 6-15-201 et seq. unless the expenditure is for the purposes outlined under Section 6.07 of ~~this Rule~~ these Rules .
- 6.06.2 -A district may use NSLA funds as a bonus or to supplement salaries above the minimum salary schedule required by Ark. Code Ann. § 6-17-2403 provided the school district is in compliance with and meets the eligibility provision of ~~this rule~~ these Rules.
- 6.06.3 School districts may use NSLA funds to pay the salaries of those teachers which are used to reduce the pupil to teacher ratio below the mandates required by the Arkansas Standards of Accreditation under the following conditions:
- 6.06.3.1 The district designates, in a written plan submitted to the ADE which must be approved by the ADE, the specific teacher(s) which are used to reduce the pupil-to-teacher ratios required by the Standards of Accreditation: explain how the district will use NSLA funds to only pay the salaries of those class-size-reduction teachers or other teachers designated by the ADE as bona fide NSLA program or purpose expenditures as allowed by Section 6.07 of these ~~r~~Rules; explains how the district will use class-size-reduction teachers(s) pursuant to a recognized published research-based program to specifically target an identified academic deficiency or need of the district which aligns with and supports the district's ~~Arkansas Comprehensive School Improvement Plan~~ ACSIP;
- 6.06.3.2 Any district which did not use NSLA funds to support the salaries of the class-size-reduction teachers by June 30 in the 2006-2007 school year is limited to using NSLA funds to support the salaries of only those class-size-reduction teachers in kindergarten through the eighth (8th) grade of the school district starting in the 2007-2008 school year and each school year thereafter, provided the district submits a detailed written plan as required in § 6.06.3.1 which is approved by the ADE; and
- 6.06.3.3 Along with any request to expand or increase the use of NSLA funds to pay for or support the salaries of class-size-reduction teachers from a previous school year, the district shall submit a written justification showing how the funds are being used to support an increased academic deficiency or need of the district and is not an attempt to avoid or circumvent the general purpose of reducing the amount of NSLA funds used to increase teacher salaries as required and mandated by Ark. Code Ann. § 6-20-2305, ~~by Act 1590 of 2007~~.
- 6.06.3.4 NSLA funds to support the salaries of the class-size reduction teachers shall only be used to reduce the pupil-to-teacher ratios required by the Standards of Accreditation for each single grade level.

6.07 NSLA funding shall be expended for eligible program(s) or purpose(s) that are research-based and aligned to the Arkansas Content Standards for improving instruction and increasing achievement of NSLA-identified students at risk of not meeting challenging academic standards, ~~either existing or new~~. These programs or purposes include:

6.07.1 Employing Literacy and/or Mathematics and/or Science Specialists/Coaches (K-12) and/or instructional facilitators that meet the following requirements:

6.07.1.1 The Specialists/Coaches and/or instructional facilitators are educators who assist in curriculum alignment with state curriculum documents; alignment of classroom assessment with statewide exams; instructional strategies; professional development and implementation of training; choosing standards-based instructional materials; understanding of current research; advantageous arrangement of the instructional day; and integrating technology into instruction.

6.07.1.2 Qualifications for Specialists/Coaches (K-12):

- At least three years of recent teaching experience in appropriate content areas within grades K-12
- Knowledge of Arkansas Curriculum Framework
- Knowledge of current research and effective practices in standards-based curriculum, instruction, and assessment
- Experience in adult learning situations and in team problem solving
- A bachelor's degree (a master's degree would be preferred).

6.07.2 Providing ~~research-based~~ research-based professional development in the areas of literacy and/or mathematics and/or science in grades Kindergarten through twelfth grade (K-12) as defined in the Arkansas Department of Education Regulations Governing Attendance at Certified Instructional Professional Development Sessions (Ark. Code Ann. § 6-17-702).

6.07.3 Employing highly qualified classroom teachers in grades Kindergarten through twelfth grade (K-12) pursuant to the restrictions set forth in Section 6.06 of this Rule.

6.07.4 Providing research-based before and after-school academic programs, including transportation to and from the programs.

6.07.5 Providing research-based pre-kindergarten programs that meet the program standards as outlined in the Rules Governing the Arkansas Better Chance program.

6.07.6 Employing Tutors:

6.07.6.1 Tutors must be able to demonstrate competency (as determined locally) in each area where instruction is provided.

6.07.6.2 Tutors must work under the supervision of highly qualified classroom teachers.

6.07.7 Employing Teacher's Aides:

6.07.7.1 Teacher's aides must be highly qualified.

6.07.7.2 Teacher's aides must work under the direct supervision of highly qualified teachers.

6.07.8 Employing ~~certified~~ licensed counselors and nurses above standard mandates. ~~licensed social workers and/or nurses.~~

6.07.9 Employing Coordinated School Health Coordinator

6.07.10 Employing Human Service Workers

6.07.11 Employing Licensed Mental Health Counselors

6.07.12 Employing Social Workers

6.07.9-~~13~~ Employing Curriculum Specialists:

6.07.~~13~~9.1 The Curriculum Specialists shall meet current licensure requirements that are outlined in the Rules Governing Initial and Standard Administrator Licensure.

6.07.14 Employing School Resource Officers (SRO) whose job duties include research-based methods and strategies tied to improving achievement of students at risk.

6.07.15 Providing experience-based field trips

6.07.40~~16~~ -Providing parent education that addresses the whole child.

6.07.44-~~17~~ Providing summer programs that ~~employ~~ implement research-based methods and strategies.

6.07.42~~18~~-Providing early intervention programs:

6.07.42~~18~~18.1 Early intervention means short-term, intensive, focused, individualized instruction developed from ongoing, daily, systematic diagnosis that occurs while a child is beginning in the initial, kindergarten through grade one (K-1), stages of learning social skills, early reading, writing, and mathematical strategies to ensure acquisition of the basic skills and to prevent the child from developing poor behavior and problem-solving habits which become difficult to change.

6.07.43-~~19~~ Obtaining materials, supplies, and equipment, including technology, used in approved instructional programs or for approved purposes. The approved programs and or purposes support the local educational agency's ACSIP.

6.07.44~~20~~ -Other activities approved by the Department that will further the purposes of this Section. Such activities include, but are not limited to, research-based activities and activities directed at chronically under-performing schools.



6.08 Use of these funds shall be included within the school and/or school district's ACSIP. The ACSIP will include how the funds will be spent, the person(s) responsible, a timeline, and budget.

6.08.1 The district shall evaluate programs supported by NSLA funds annually to ensure that the programs are providing intervention/prevention services designed to increase student achievement.

6.08.2 The district shall maintain documentation that supports gains in student achievement as measured by the state assessment system.

6.09 NSLA funding may be carried over from one fiscal year to the next, but these funds shall remain restricted to priority areas as defined in ~~this~~ these Rules or law.

6.10 -NSLA funding is restricted state aid, except as otherwise allowed by law or Rule.

6.11 ~~Flexibility In Use of NSLA Categorical Funding~~ Use of Excess NSLA Funds to Supplement Teacher Salaries

6.11.1 ~~Bonuses—Only these s~~ School districts which that have met meet the needs of students for whom the additional categorical funds are provided, and that have following conditions as verified in writing by the Commissioner of Education (or his/her designee) shall be allowed to use excess NSLA funds, may request to use the excess NSLA funds to supplement teacher salaries under the following conditions: ~~funding as a bonus to all classroom teacher salaries:~~

6.11.1.1 ~~The school district submits in writing on or before March 31 of the current school year the following:~~

~~6.11.1.1.1~~

6.11.1.1 ~~That the school district shall not use any portion of the NSLA categorical funds that are carry forward or reserve funds as a bonus~~ supplement to classroom teacher salaries;

~~6.11.1.1.2~~

6.11.1.2 ~~That the school district is meeting the minimum teacher salary schedule under Ark. Code Ann. § 6-17-2403 without using current year, carry forward or reserve NSLA funds;~~

~~6.11.1.1.3~~

6.11.1.3 ~~That the school district is in full compliance with the rules and laws governing the Standards for Accreditation of Arkansas Public Schools under Ark. Code Ann. § 6-15-201 et seq. and the rules and laws governing the Arkansas Fiscal and Accountability Program under [Ark. Code Ann. § 6-20-1901 et seq.](#) without using current year, carry forward or reserve NSLA funds. No school district in probationary violation of the Standards of Accreditation or not in compliance with fiscal distress laws shall be allowed to use NSLA funds to pay a bonus to all classroom teachers as allowed in Section 6.11.1.~~

~~6.11.1.1.4 The district submits a written detailed plan with the school district's Arkansas Comprehensive School Improvement Plan stating how the school district will use its excess NSLA current year funds as bonuses to all classroom teacher salaries; how the district has met the adequate educational needs of all the students in the district; that the school district has met the conditions and requirements of Section 6.11.1 of this rule and how the school district has prudently managed the resources of the district. In order to help verify this information, the districts shall, at a minimum, provide the following written information:~~

- ~~a. Total amount of NSLA funds held in balance by a school district; total amount of current year NSLA funds received by the district; total amount of current year NSLA funds applied to any bonus or salary of an employee of the district; names of those employees of the district who will receive a bonus or increase in salary from NSLA funds; percent of current year and total NSLA funds used as a bonus for classroom teachers.~~
- ~~b. A listing of all programs and actions and purpose of the programs which were funded by current year NSLA funds and funded by reserve or carry forward NSLA funds.~~
- ~~c. Staffing charts listing individual employees and their certification levels used to support the listed NSLA programs.~~
- ~~d. A listing of the targeted participants of each NSLA program along with the targeted curriculum content area(s) to be addressed by the NSLA programs;~~
- ~~e. Specific objectives for each NSLA programs;~~
- ~~f. Outline of how the district will measure and monitor the performance of NSLA programs;~~
- ~~g. Specify the measurement outcomes of each of the NSLA programs;~~
- ~~h. Report whether the district is in academic distress or failing to make adequate yearly progress (AYP). If failing to make AYP, specify which subgroups are failing and how the district is using NSLA funds to address such failures; and~~
- ~~i. A listing of the average student to teacher ratio for the school district.~~

6.11.1.4 [The school district shall not allocate or use any excess NSLA funds in any manner except to supplement teacher salaries.](#)

6.11.1.5 Excess NSLA funds used as a bonus to supplement teacher salaries shall not be considered a permanent obligation under the school district's teacher salary schedule.

6.11.1.6 The school district will include the amount and uses of excess NSLA funds in its ACSIP.

6.11.1.7 The district has met or is meeting the adequate educational needs of students.

6.11.1.8 The district has prudently managed its resources

6.11.1.9 The district has met all requirements of Section 6.11 of this Rule

6.11.1.10 If the district used excess NSLA funds in the prior year to supplement teacher salaries, the district has submitted the required report on prior year expenditures as required by Section 6.11.5.

6.11.1.11 The district has submitted the portion of its ACSIP that described the uses of NSLA funds.

6.11.1.12 The district has complied with the mandatory 20% reduction of actual amount of prior year NSLA funds used to supplement teacher salaries above the minimum teacher salary schedule until the district has no more than 20% of the total of current year NSLA funds used as a supplement to teacher salaries above the minimum teacher salary schedule.

~~6.11.2 No school district that is currently in probationary violation of the Standards for Accreditation or not in compliance with fiscal distress laws shall be allowed to use NSLA funds to pay bonuses to all classroom teacher salaries.~~

6.11.2 A school district requesting to use excess NSLA funds as a supplement to the minimum teacher salary schedule under Ark. Code Ann. § 6-17-2403 shall provide the following information to the Commissioner of Education, or designee, by February 15 of the school year for which approval is requested:

6.11.2.1 A statement of assurance attesting to compliance with sections 6.11.1 of these Rule

6.11.2.2 The actual amount of excess NSLA funds used to supplement salaries above the required minimum salary schedule in the previous school year, the actual amount of total NSLA funds received in the previous school year, and the actual percentage of NSLA funds used as a supplement above the required minimum salary schedule to total NSLA funds received

6.11.2.3 The budgeted amount of excess NSLA funds used to supplement salaries above the required minimum salary schedule in the current school year, the budgeted amount of total NSLA funds received in the current school year, and the calculated percentage of NSLA funds used as a supplement above the required minimum salary schedule to total NSLA funds received in the current year.

6.11.2.4 If the percent of excess NSLA funds used as a supplement above the required minimum salary schedule to total NSLA funds received is greater than twenty percent (20%), the district shall reduce by twenty percent (20%) the actual amount of prior year NSLA funds used to

supplement teacher salaries above the minimum teacher salary schedule until the district has no more than twenty percent (20%) of the total of current year NSLA funds used as a supplement to teacher salaries above the minimum teacher salary schedule.

6.11.2.5 No school district shall use NSLA funds to supplement salaries above the required minimum salary schedule without first obtaining the express written approval of the Commissioner of Education or his/her designee.

~~6.11.3 No school district shall use NSLA funds to pay a bonus to classroom teachers without first obtaining the express written approval of the Commissioner of Education or his/her designee.~~

6.11.3 A school district requesting to use excess NSLA funds as a supplement in the form of a bonus, shall provide the following information to the Commissioner of Education, or designee, by February 15 of the school year for which approval is requested.

6.11.3.1 A statement of assurance attesting to compliance with sections 6.11.1 of this Rule

6.11.3.2 The information required in Section 6.11.2, and any other information requested by the Department, if the Commissioner of Education,

6.11.3.3 The amount of funds to be used as a bonus

6.11.3.4 The total amount of NSLA funds the district will receive in that year

6.11.3.5 In response to the district's request, the Commissioner shall evaluate the district's test scores against the state averages as one indicator of how the district has met the educational needs of students. Tests may include, but not be limited to, grades three (3) through eight (8) state required benchmark exams in math and literacy and state required end-of-course exams for algebra, biology, geometry, and literacy.

6.11.3.6 As additional assessment data becomes available, it may also be included in the Commissioner's review

6.11.3.7 No school district shall use NSLA funds as a bonus without first obtaining the express written approval of the Commissioner of Education or his/her designee.

6.11.4 Upon review of the information required in Section 6.11.2, 6.11.3, and any other information requested by the Department, if the Commissioner of Education, or designee, determines the school district has met the needs of students, has prudently managed its resources, and has complied with these Rules and the law, the Commissioner shall give written approval of the use of excess NSLA funds to supplement teacher salaries.

6.11.4.1 Such approval is limited to one school year.

~~6.11.4 The Commissioner of Education shall not provide written express approval to a school district to use current year NSLA funds as a bonus to all classroom teacher salaries without first determining:~~

- ~~6.11.4.1 That a school district has met the adequate educational needs of the students in the district;~~
- ~~6.11.4.2 That the district has met all the requirements of this rule and Act 1590 of 2007; and~~
- ~~6.11.4.3 That the district has prudently managed the resources of the district.~~
- 6.11.5 By September 15 ~~On or before June 15~~ of each school year, any school district that received written approval to ~~which was granted flexible use of NSLA funds under this rule~~ as a supplement to teacher salaries in the previous school year shall issue a written report to the Commissioner of Education listing:
  - 6.11.5.1 Each program upon which NSLA funds were expended; ;
  - 6.11.5.2 The actual amount of NSLA funds expended on each program; ;
  - 6.11.5.3 Information required in Section 6.11.2 and 6.11.3, and any other information requested by the Department
  - ~~6.11.5.3 The actual NSLA programs that were implemented by the district which were listed in this rule;~~
  - ~~6.11.5.4 The actual content of each program and whether instructional materials were issued to the students for each program;~~
  - ~~6.11.5.5 The students and staff assigned to each NSLA program;~~
  - ~~6.11.5.6 The relevant test score data on students assigned to the NSLA programs as required by the ADE;~~
  - ~~6.11.5.7 A content description of all professional development used to support NSLA programs and providing a listing of all teachers and staff assigned to such professional development;~~
  - ~~6.11.5.8 A report on current student progress and longitudinal student progress for each NSLA program;~~
  - ~~6.11.5.9 A report reconciling the budget for NSLA programs to actual NSLA expenditures; and~~
  - ~~6.11.5.10 The year-end balance of current year NSLA funds, carry forward or reserve NSLA funds and total NSLA funds.~~
- 6.11.6 Upon review, at any time during a school year, of a school district's Arkansas Comprehensive School Improvement Plan, those reports and information required by ~~this rule~~ these Rules, test or financial data or other indicators of a school district, if the Commissioner of Education or his/her designee determines a school district has not met the needs of students that may be served by NSLA funds, has provided false or misleading information or has failed to comply with the provisions of the district's submitted plans without obtaining ADE approval to change the submitted plans required by this rule, the Commissioner of Education may require that any and all NSLA funds dedicated for use or application as a bonus shall be removed from and not used as a bonus and may

require the school district to redirect the NSLA funds to meet other educational needs of the students of that district.

~~6.11.7 Any excess NSLA funds used as a bonus to supplement the salaries of classroom teachers shall only be used as a non-recurring bonus to a classroom teacher's salary and shall not be considered a permanent obligation of the school district under the district's teacher salary schedule or as a contract obligation.~~

6.11.7 Only those school districts which previously used or applied excess NSLA funds to supplement the teacher salary schedule for all classroom teachers in the district as part of a salary obligation may continue to use NSLA funds as a salary obligation to the extent the district has received approval from the Commissioner of Education under Section 6.12 and the district is in full compliance with ~~these Rules, this rule,~~ under Section 6.11 and Act 1590 of 2007.

#### 6.12 Flexibility In Use of NSLA Categorical Funding As a Salary Obligation

~~6.12.1 Salaries — Beginning with the 2007-2008 school year and each school year thereafter, only those school districts that used or applied NSLA funds as a salary supplement to the teacher salary schedule for all classroom teachers during the 2006-2007 school year as required under former § 6-202305(b)(4)(c)(i)(b) [repealed] may apply to continue to use or apply current year received NSLA funds to a salary obligation of the district as part of a teacher salary schedule under the following conditions:~~

~~6.12.1.1 For the 2007-2008 school year, districts shall submit as part of their ACSIP, the requisite detailed information, verification or plans required in Section 6.11 of these rules. Beginning in 2008-2009, on or before March 31 of the prior school year, the school district submits in writing the requisite detailed information, verification or plans required in Section 6.11 of these rules;~~

~~6.12.1.2 That the school district is subject to and otherwise meets all the other requirements of this rule (except where appropriate the district reports use of NSLA funds used for salaries rather than bonuses or both as may be applicable) of this rule and has received the express written approval of the Commissioner of Education (or his/her designee) to continue to use NSLA funds on a 20% reduction of actual amount of the NSLA funds used as a salary obligation from the prior school year until the district has no more than 20% of the total of any current year NSLA funds received by the district used as a supplement to any salary obligation for classroom teacher salaries; and~~

~~6.12.1.3 Each school district eligible to use NSLA funds as a salary obligation must apply for and receive approval each school year as required by this rule.~~

~~6.12. Each school district eligible under this rule is subject to the conditions and requirements of this rule (except where appropriate the district may be required to report required information on the use of NSLA funds as a salary obligation rather than a bonus to salaries or, in some instances, the district is required to report the proposed use of NSLA funds as both a salary obligation and a bonus to salaries as allowed by this rule).~~

~~6.12.1 Nothing in this rule shall be construed or deemed to prohibit those school districts eligible under this rule from also being eligible to apply for application of NSLA funds as a bonus to salaries under this rule, provided the district receives written approval as required by this rule and Act 1590 of 2007.~~

## **7.00 Special Needs - Professional Development**

- 7.01 The Professional Development funding amount shall be an amount up to the amount required by law times the district's ADM of the previous school year.
- 7.02 Professional Development funding shall be expended for approved programs and purposes identified in the Rules Governing Professional Development and employing literacy, mathematics, or science coaches as described in ~~this Rule~~ [these Rules](#).
- 7.03 Districts may expend state Professional Development funding to provide the requisite hours of professional development required by Rule or law.
- 7.04 Professional Development funding is restricted state aid. Professional Development funding shall be spent on activities identified in ~~this Rule~~ [these Rules](#), except as otherwise allowed by law or Rule.
- 7.05 Professional Development funding may be carried over from one fiscal year to the next, but these funds shall remain restricted to priority areas as defined in ~~this Rule~~ [these Rules](#).
- 7.06 Professional Development activities and funding shall be included in the district's Arkansas Comprehensive School Improvement Plan (ACSIP).

## **8.00 Financial Accounting for Special Needs Funding for ALE, ELL, NSLA, and Professional Development**

- 8.01 After having provided programs designed to meet the needs of students in the respective categorical funding areas, a school district may transfer and expend funds on any of the special needs categories allowed for in ~~this Rule~~ [these Rules](#).
- 8.02 Special needs funding of ALE, ELL, NSLA, and Professional Development may be used for any of the expenditures identified in ~~this Rule~~ [these Rules](#).
- 8.03 Districts shall report the funds received under each special needs funding category.
- 8.04 Districts shall report the expenditures of all special needs funds as required by law, including, but not limited to, fund balances remaining on June 30 of each year.
- 8.05 The funds received, transferred, expended, and/or carried over shall balance.
- 8.06 If the Department determines that a district would lose any federal funding due to these explicated expenditure requirements, the special needs funds may be expended for other academic programs or salaries, as permitted by the Department.