

Title 20. Public Health and Welfare

Chapter XVI. Arkansas Alcohol and Drug Abuse Coordinating Council, Division of Aging, Adult, and Behavioral Health Services, Department of Human Services

Subchapter A. Generally

Part 700. Arkansas Alcohol and Drug Abuse Coordinating Council Rules of Procedure

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"ARTICLE 1. MISSION STATEMENT

The Arkansas Alcohol and Drug Abuse Coordinating Council oversees the planning and budgeting of education, prevention, treatment programs and law enforcement services as they relate to the enforcement of Arkansas alcohol and drug law to efficiently and effectively combat the abuse of alcohol and drugs in the state of Arkansas.

ARTICLE 2. BACKGROUND

In 1989, the Arkansas Legislature created the position of Arkansas Drug Director ("the Drug Director") within the Office of the Governor. In addition, the legislature created the Council, specifying that the Drug Director shall serve as the chairman of the Council. In 1995, the legislature reconstituted the Council and transferred both the Highway Safety Program Advisory Council (created by Ark. Code Ann. § 12-6-101) to the Arkansas Alcohol and Drug Abuse Authority (created by Ark. Code Ann. § 20-64-604) to the Council pursuant to a type 3 Transfer as defined in Ark. Code Ann. § 25-2-106. As a result of these transfers, the Council possesses all of the powers and duties of those entities as set forth in these rules. In 2005, the legislature reorganized the Council in accordance with Act 1453."

Subpart 1. Generally

20 CAR § 700-101. Responsibilities.

(a) The Arkansas Alcohol and Drug Abuse Coordinating Council oversees the spending of state and federal funds on alcohol and drug education, prevention, treatment, and law enforcement.

(b) Striving to effectively combat the dangers associated with alcohol and drug abuse, the council provides the framework for ensuring that federal and state funds are expended in a manner that meets the needs of the local community while consistent with efforts conducted statewide.

(c) The council awards funding each year to local schools, police departments, treatment and prevention centers, and drug task forces, as well as other entities, in an effort to confront the problem of drug and alcohol abuse from every angle through:

- (1) Programs designed to prevent the spread of substance abuse and educate children about the dangers of substance abuse;
- (2) Programs aimed at treating those with substance abuse problems; and
- (3) Funds spent to eradicate controlled substances through the work of law enforcement agencies.

Authority. Arkansas Code § 20-64-1003.

20 CAR § 700-102. Membership.

(a) The Arkansas Alcohol and Drug Abuse Coordinating Council is composed of twenty-seven (27) members, thirteen (13) of whom are administrative officers or their designees, confirmed by gubernatorial appointments, including the:

- (1) Arkansas Drug Director;
- (2) Director of the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services;
- (3) Director of the Division of Arkansas State Police;
- (4) Commissioner of Elementary and Secondary Education;
- (5) Director of State Highways and Transportation;

- (6) Director of the Division of Correction;
- (7) Deputy Director of the Department of Finance and Administration;
- (8) Adjutant General;
- (9) Attorney General;
- (10) Director of the State Crime Laboratory;
- (11) Director of the Office of Alcohol Testing of the Department of Health;
- (12) Director of the Administrative Office of the Courts; and
- (13) Director of the Division of Community Correction.

(b) Other members, appointed by the Governor for three-year terms and who will not serve more than two (2) consecutive terms in the same position, include:

- (1) One (1) police chief;
- (2) One (1) county sheriff;
- (3) One (1) drug court judge;
- (4) One (1) prosecuting attorney;
- (5) A private citizen not employed by the state or federal government;
- (6) A director of a publicly funded alcohol and drug abuse treatment program;
- (7) A school drug counselor;
- (8) A director of a drug abuse prevention program;
- (9) A director of a driving-while-intoxicated program;
- (10) A health professional; and
- (11) Four (4) members from the state at large who have demonstrated

knowledge of, or an interest in, alcohol and drug abuse prevention, at least two (2) of which shall be recovering persons.

(c) The United States Attorney for Arkansas or his or her designee shall serve on the council in an advisory capacity, Arkansas Code § 20-64-1002.

Authority. Arkansas Code § 20-64-1003.

6 CAR § 700-103. Structure.

(a)(1) Three (3) standing committees have been established to assist in carrying out the responsibilities of the Arkansas Alcohol and Drug Abuse Coordinating Council as prescribed by law and any other matters referred to them by the council.

(2) They are a:

(A) Prevention, Education, and Treatment Committee, chaired by the Director of the Division of Aging, Adult, and Behavioral Health Services;

(B) Law Enforcement Committee; and

(C) Policies and Procedures Committee.

(3) The Arkansas Drug Director may establish a Joint Action Committee as well as other committees as necessary.

(4) Each committee is comprised of council members assigned to the committee by the Arkansas Drug Director, who may, at her or his discretion, restructure the membership of each committee on an annual basis.

(b)(1) The Arkansas Drug Director serves on each committee as a nonvoting member.

(2) In addition, the chairperson of each committee may not vote on a matter before the committee except in cases of a tie, in which case the chairperson shall cast the deciding vote.

(3) A simple majority of committee members constitutes a quorum.

(4) When a vote is taken, a simple majority of the members present is sufficient for the committee to act on the matter before it.

(5) Recommendations by the respective committees will be forwarded to the council for action consistent with this part.

Authority. Arkansas Code § 20-64-1003.

20 CAR § 700-104. Prevention, Education, and Treatment Committee.

(a) **Responsibilities.** The Prevention, Education, and Treatment Committee is responsible for recommending awards of state and federal funding to state and local

agencies, schools, and private nonprofit groups in the areas of prevention, education, and treatment of alcohol and drug abuse.

(b) **Procedures.**

(1) All applications considered for funding by the committee are available through the Division of Aging, Adult, and Behavioral Health Services and are to be submitted in accordance with the division's rules, while funding consideration of competitive contract proposals must abide by state procurement procedures.

(2) The division shall not forward a competitive grant/contract and/or continuation request to the committee unless it has met:

(A) Technical review to assure compliance with grant/contract requirements; and

(B) Program review to assure the proposed project is sound and appropriate to the division's strategic plan.

(3) Upon receipt of the forwarded applications, the committee will review the applications and interview all applicants to determine which applications will be recommended for further funding consideration by the Arkansas Alcohol and Drug Abuse Coordinating Council.

(4) Upon receipt of the committee's recommendation, the council may take any action it deems necessary with respect to the recommendation, including, but not limited to:

(A) Voting to accept all of the committee's recommendations;

(B) Requesting additional information; or

(C) Delaying a decision until such time as the council determines to be appropriate.

(c) **Unused or returned funds.** All funds awarded but not used by a grantee/contractor returned to the division shall be available for redistribution in accordance with the procedures stated in subsection (b) of this section, providing that such reissue fits within the time limitation of the original funding source.

Authority. Arkansas Code § 20-64-1003.

20 CAR § 700-105. Law Enforcement Committee.

(a) Responsibilities.

(1) The primary responsibilities of the Law Enforcement Committee are developing funding strategies and overseeing awards of the:

(A) Edward Byrne Memorial Justice Assistance Grant (JAG) Program from the United States Department of Justice;

(B) State Drug Crime Enforcement and Prosecution Grant Fund; and

(C) Special State Assets Forfeiture Fund.

(2) In addition, the committee reviews requests from units of state and local governments including cities, counties, state agencies, prosecuting attorneys, circuit judges, and various law enforcement agencies, municipalities, and drug task forces for funding from recovered grant funds administered by the Arkansas Alcohol and Drug Abuse Coordinating Council.

(3) The committee is also responsible for providing recommendations to the council for the awarding of state and federal funds for drug interdiction, eradication, education, rehabilitation, and drug courts.

(b) Procedures.

(1)(A) Edward Byrne Memorial Justice Assistance Grant (JAG) Program.

(B) In each state, the Governor or other chief executive officer designates a state agency (state administering agency, or SAA) to apply for and administer these funds.

(C) The SAA for Arkansas is the Office of Intergovernmental Services.

(D) As the SAA for Arkansas, the Office of Intergovernmental Services is responsible for:

(i) Coordination of JAG funds among state and local justice initiatives;

(ii) Preparation and submission of the state JAG application;

(iii) Administration of JAG funds including:

(a) Establishing funding priorities;

(b) Distributing funds;
(c) Monitoring subrecipients' compliance with all JAG special conditions and provisions; and

- (d) Providing ongoing assistance to subrecipients; and
(iv) Submission of:
(a) Financial reports;
(b) Programmatic reports;
(c) Performance measures; and
(d) Subgrant information.

(E)(i) After receipt of award by the SAA from the United States Department of Justice, a notice of funds available will be sent by the Office of Intergovernmental Services to the:

- (a) Arkansas Drug Director;
(b) All mayors, chiefs of police, county judges, sheriffs, circuit, district, and municipal judges, prosecutors; and
(c) All state agencies that have a law enforcement function.

(ii) The notice will contain a due date for submission of applications.

(iii) If the due date falls on a weekend, the due date will be the Monday following the due date, unless that Monday is a state or federal holiday, in which case the due date will be the Tuesday following the original due date.

(iv) All applications must be received by the close of business, 4:30 p.m. on the due date, in order to be considered for funding.

(v) In the event of extraordinary circumstances, a late filing may be accepted by approval of the Administrator of the Office of Intergovernmental Services upon showing by the applicant that unexpected circumstances beyond the control of the applicant agency prevent a timely filing.

(F)(i) Upon receipt, the Office of Intergovernmental Services will review all applications and make recommendations based on:

- (a) Funding priorities;
(b) Availability of funds;

(c) Grant program restrictions; and

(d) Federal grant management regulations.

(ii) The individual project descriptions, budgets, budget narratives, the Office of Intergovernmental Services' funding recommendations, and overall grant program budget will be sent by the Office of Intergovernmental Services to the committee for review by each of the committee members and then by the committee as a whole.

(iii) The applying law enforcement agency, upon request by the committee or the council, may be required to appear before the committee or the council to support its application.

(iv) Federal grant management issues of supplanting, unallowable costs to federal funding, unavailability of federal funding, or impermissible federal program uses are to be determined by the state administering agency, the Office of Intergovernmental Services.

(v) The committee will forward its recommendations for funding to the council.

(vi) Upon receipt of the committee's recommendations, the council may take any action it deems appropriate with respect to the recommendations, including, but not limited to:

(a) Voting to accept the committee's recommendations;

(b) Requesting additional information; or

(c) Delaying a decision until such time as the council determines to be appropriate.

(vii) The Office of Intergovernmental Services will notify applicants of the council's decision, as well as any right to seek reconsideration.

(viii) Any applicant who has been denied funding by the council must notify the director and the Office of Intergovernmental Services in writing of the intent to seek reconsideration no later than ten (10) business days of receiving notification.

(ix) The party requesting reconsideration will submit written materials supporting the request.

(x) Parties desiring reconsideration may request the opportunity to present oral arguments before the council.

(xi) After the request for reconsideration has been presented, the council may either refer the request back to the committee for reconsideration or take any other action it deems necessary, including not reconsidering the request for funding.

(xii) If the applicant is referred back to committee, the request for reconsideration will be reviewed and resubmitted to the council for final decision.

(2)(A) State Drug Crime Enforcement and Prosecution Grant Fund Program.

(B) The Office of Intergovernmental Services administers these funds in accordance with guidelines established by the council.

(C) The Office of Intergovernmental Services administers these funds in accordance with guidelines established by the council.

(D) Reference Rules of Procedure for the State Drug Crime Enforcement and Prosecution Grant Fund, 12 CAR pt. 90, revised June 2018.

(3)(A) Special State Assets Forfeiture Fund Grant Program.

(B) The Office of Intergovernmental Services administers these funds in accordance with guidelines established by the director's office.

(C) Reference Rules of Procedure for the Special State Assets Forfeiture Fund, 5 CAR pt. 40, revised June 2018.

(c) Unused or recovered funds.

(1) When the Office of Intergovernmental Services determines that unused or recovered funds are available, they shall notify the council of the:

- (A) Availability of such funds;
- (B) Approximate amount available; and
- (C) Deadline for applying for such funds.

(2) All grant funds which are not used by the grantees or which are returned by the grantees shall be awarded in accordance with the procedures stated in subsection (b) of this section.

Authority. Arkansas Code § 20-64-1003.

20 CAR § 700-106. Joint committee action.

The Prevention, Education, and Treatment Committee and the Law Enforcement Committee shall meet jointly on matters including, but not limited to, the Residential Substance Abuse Treatment for State Prisoners Program, and shall make recommendations for funding to the Arkansas Alcohol and Drug Abuse Coordinating Council which shall make the final funding decision.

Authority. Arkansas Code § 20-64-1003.

20 CAR § 700-107. Policies and Procedures Committee.

(a) The Policies and Procedures Committee reviews and recommends, as needed, revisions to the rules of procedure that govern the operations of the Arkansas Alcohol and Drug Abuse Coordinating Council.

(b) Any recommendations by the committee will be forwarded to the council, and any action taken by the council will be consistent with the provisions of the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

Authority. Arkansas Code § 20-64-1003.

20 CAR § 700-108. Meetings.

(a) **Schedule.**

(1) The Arkansas Alcohol and Drug Abuse Coordinating Council meets monthly or at such times as the Arkansas Drug Director deems necessary.

(2) An agenda including the location of the meeting will be provided to each member of the council prior to the meeting.

(3) Dates, times, and locations of all meetings will be posted on www.arkansas.gov in accordance with Acts 2009, No. 1302.

(b) **Attendance.** The council will adhere to Arkansas Code § 25-16-804 regarding member absences.

(c) **Agenda.** The Arkansas Drug Director or her or his designee presides over each meeting and determines the business to be conducted at the meeting, including any reports or recommendations from the respective committees, appeals, and any other business pertinent to the council.

(d) **Quorum and voting.**

(1) A simple majority of council members constitutes a quorum.

(2) When a vote is taken, a simple majority of the members present is sufficient for the council to act on the matter before it.

(3) The Arkansas Drug Director shall not vote except in cases of a tie, in which case the Arkansas Drug Director shall cast the deciding vote.

(4) The thirteen (13) state administrative officers of the council may designate one (1) voting designee.

(5) Should they choose to exercise this option, written notification will be sent to the Arkansas Drug Director.

(e) **Conflicts of interest.**

(1) No member may cast a vote, either in committee or in a meeting of the council, or both, with respect to any item of business in which the member has a conflict of interest.

(2) A conflict of interest includes, but is not limited to, situations in which a member has either a financial interest in or holds any position of control of any organization, public or private, that is seeking funding from the council.

(3) In the event a conflict of interest exists, the member with the conflict must abstain from discussion and voting on the matter involving the conflict, but the member may respond to any factual question posed by another member of the council.

(f) **Appeals from Division of Aging, Adult, and Behavioral Health Services action.**

(1) In addition to its other business, the council shall also serve as a board of review for action taken by the division with respect to matters including, but not limited to, the licensing of alcohol and/or drug abuse treatment programs.

(2) Appeals taken from adverse action by the division must comply with the policies and procedures of the division.

(3) Once such an action by the division is appealed to the council, the council may act on the matter, or it may refer the matter to the Prevention, Education, and Treatment Committee for its recommendation.

(4) The Director of the Division of Aging, Adult, and Behavioral Health Services shall abstain from discussion and voting, either in committee or in a meeting of the council or both, with respect to any such action, but the Director of the Division of Aging, Adult, and Behavioral Health may respond to any factual questions posed by another member of the council.

(5) If the matter is referred to the Prevention, Education, and Treatment Committee, the Prevention, Education, and Treatment Committee shall consider the matter and shall forward its recommendation to the council.

(6) Upon receipt of the recommendation, the council shall act on the recommendation in accordance with the provisions of this section.

(7) Members of the Prevention, Education, and Treatment Committee shall abstain from discussion and voting within the full council deliberations.

(8) Prevention, Education, and Treatment Committee members may, however, answer factual questions from other members.

Authority. Arkansas Code § 20-64-1003.

20 CAR § 700-109. Appeals from action by the council.

(a) Decisions by the Arkansas Alcohol and Drug Abuse Coordinating Council are final.

(b)(1) Federal grant management issues of supplanting, unallowable costs to federal funding, unavailability of federal funding, or impermissible federal program uses are to be determined by the state administering agency.

(2) These determinations shall be reported to the council.

(3) Those decisions that meet the definition of "adjudication" under the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq., may be appealed in accordance with the Arkansas Administrative Procedure Act.

Authority. Arkansas Code § 20-64-1003.

20 CAR § 700-110. General information.

(a) Any questions concerning the Arkansas Alcohol and Drug Abuse Coordinating Council should be directed to the attention of the office of the Arkansas Drug Director in care of the Governor's office.

(b) Petitions for declaratory orders as to the applicability of any rule, statute, or order enforced by the council shall be directed to the office of the director and shall be considered at the next meeting of the council following receipt of such petition.

(c) All funds awarded by the council are subject to evaluation and review by the council within its discretion to ensure that all funds awarded are spent in a manner consistent with the mission of the council as set forth herein.

Authority. Arkansas Code § 20-64-1003.