

Title 6. Education

Chapter I. Division of Elementary and Secondary Education

Subchapter H. School Districts

Part 238. Rules Governing Ethical Guidelines and Prohibitions for Educational Administrators, Employees, Board Members, and Other Parties

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

"1.00 REGULATORY AUTHORITY

1.01 These rules shall be known as the Arkansas Department of Education Rules Governing Ethical Guidelines and Prohibitions for Educational Administrators, Employees, Board Members and other parties.

1.02 These rules are enacted pursuant to the Arkansas State Board of Education's authority under Ark. Code Ann. §§ 6-11-105, 6-24-101 et seq., 25-15-201 et seq. and Act 846 of 2015."

"March 2016"

Subpart 1. Generally

6 CAR § 238-101. Purpose.

The purpose of this part is to set forth certain ethical guidelines and prohibitions for educational administrators, employees, board members, and other parties that involve contracts, transactions, or agreements with Arkansas public school districts, charter schools, educational cooperatives, or any publicly supported entity having supervision over public educational entities excluding institutions of higher education.

Authority. Arkansas Code §§ 6-11-105, 6-24-119.

6 CAR § 238-102. Definitions.

Unless otherwise specifically stated herein, the term:

(1)(A) "Administrator" means any:

- (i) Superintendent;
- (ii) Assistant superintendent or his or her equivalent;
- (iii) Open-enrollment public charter school director;
- (iv) School district treasurer;
- (v) Business manager; or
- (vi) Other individual responsible for entity-wide purchasing.

(B)(i) The determining factor for being considered an "administrator" for the purposes of this part is the actual or implied authority of an individual to make purchases on behalf of the entire organization.

(ii) This definition excludes many building principals, whose purchasing authority is often limited to their own school, but could include athletic directors or others.

(iii) Classified employees serving in food services, business/accounting, or other capacities may also be considered "administrators" when they exercise autonomous system-wide purchasing authority;

(2) "Board" means local school boards or other governing bodies of public educational entities;

(3) "Board of Education" means the State Board of Education;

(4) "Board member" means any board member, director, or other member of a governing body of a public educational entity;

(5) "Commissioner" means:

- (A) The Commissioner of Elementary and Secondary Education; or
- (B) His or her designee;

(6) "Commodities" means all supplies, goods, material, equipment, computers, software, machinery, facilities, personal property, and services, other than personal and professional services, purchased for or on behalf of a public educational entity;

(7)(A) "Compensation or other benefits" means any monetary or nonmonetary gain, including without limitation salary, fringe benefits, gratuities, and bonuses received by:

- (i) Owners;
- (ii) Officers;
- (iii) Directors;
- (iv) Trustees;
- (v) Partners;
- (vi) Managerial employees; or
- (vii) Other executive level employees.

(B) The definition does not include compensation or other benefits received by the following individuals:

- (i) Nonmanagerial or nonexecutive level employees;
- (ii) Clerical or other similar hourly compensated employees;
- (iii) Individuals who own five percent (5%) or less interest in a company or entity; and
- (iv) Individuals who own stock or other equity holdings in any publicly held company;

(8) "Contract" means any transaction or agreement for the purchase, lease, transfer, or use of real property or personal property and personal or professional services, including but not limited to:

- (A) Motor vehicles;
- (B) Equipment;
- (C) Commodities;
- (D) Materials;
- (E) Services;
- (F) Computers or other electronics;
- (G) Construction;
- (H) Capital improvements;
- (I) Deposits; and

(J) Investments;

(9) "Contract disclosure form" means the form herein incorporated and attached to this part as Appendix Form B;

(10) "Day" means a working day in which the Department of Education is open to transact official governmental business;

(11) "Department" means the Department of Education;

(12) "Directly" or "directly interested" means receiving compensation or other benefits personally or to an individual's household from the person, business, or entity contracting with the public educational entity;

(13) "Emergency purchase" means purchases mandated by unforeseen and unavoidable circumstances in which:

(A) Human life, health, or public property is in immediate jeopardy; and

(B) The expenditure is necessary to preserve:

(i) Life;

(ii) Health; or

(iii) Public property;

(14) "Employee" means a full-time employee or part-time employee of a public educational entity;

(15) "Employment contract" means an agreement or contract between an employer and an employee in which the terms and conditions of the employment are provided;

(16) "Family" or "family members" means:

(A) An individual's spouse;

(B) Children of the:

(i) Individual; or

(ii) Individual's spouse;

(C) The spouse of a child of the:

(i) Individual; or

(ii) Individual's spouse;

(D) Parents of the:

- (i) Individual; or
- (ii) Individual's spouse;

(E) Brothers and sisters of the:

- (i) Individual; or
- (ii) Individual's spouse;

(F) Anyone living or residing in the same residence or household with the:

- (i) Individual; or
- (ii) Individual's spouse; or

(G) Anyone acting or serving as an agent of the:

- (i) Individual; or
- (ii) Individual's spouse;

(17)(A) "Financial interest" in a business or other entity means:

- (i) Ownership of more than a five percent (5%) interest;
- (ii) Holding a position as:

- (a)* Officer;
- (b)* Director;
- (c)* Trustee;
- (d)* Partner; or
- (e)* Other top level management; or

(iii) Being an employee, agent, independent contractor, or having any other arrangement in which the individual's compensation is based in whole or in part on transactions with the public educational entity.

(B) "Financial interest" does not include:

- (i) The ownership of stock or other equity holdings in any publicly held company; or
- (ii) Clerical or other similar hourly compensated employees;

(18) "Gratuity" means a payment, loan, subscription, advance, deposit of money, travel, services, or anything having a present market value of one hundred dollars (\$100) or more unless consideration of substantially equal or greater value is received;

(19) "Indirectly" or "indirectly interested" means that a family member, business, or other entity in which the individual or family member has a financial interest will receive compensation or benefits;

(20) "Initially employed" means:

(A) Employed in either an interim or permanent position for the first time or following a severance in employment with the school district; or

(B) A change in the terms and conditions of any existing contract, excluding:

(i) Any renewal of a teacher contract under Arkansas Code § 6-17-1506;

(ii) Renewal of a noncertified employee's contract that is required by law; or

(iii) Movement of an employee on the salary schedule that does not require the public educational entity's board action;

(21)(A) "Public educational entity" means:

(i) Arkansas public school districts;

(ii) Charter schools;

(iii) Education service cooperatives; or

(iv) Any publicly supported entity having supervision over public educational entities.

(B) "Public educational entity" does not include institutions of higher education;

(22)(A) "Unusual and limited circumstances" means without limitation those circumstances that are:

(i) Uncommon;

(ii) Rare; and

(iii) Restricted.

(B) For the purposes of employment contracts, unusual and limited circumstances may include without limitation a shortage of qualified candidates.

(C) For contracts and transactions other than employment contracts, unusual and limited circumstances may include without limitation the selected vendor:

(i) Being the only vendor within a reasonable distance offering the required services; or

(ii) Offering the lowest bid for prices or services as compared to two (2) or more other bidders; and

(23) "Written resolution" means the form herein incorporated and attached to this part as Appendix Form C.

Authority. Arkansas Code §§ 6-11-105, 6-24-119.

6 CAR § 238-103. Compliance with other laws and rules.

(a) Nothing in this part alters or diminishes other statutory or regulatory requirements regarding purchasing, contracting, bidding, disposition of property, or other transactions with public educational entities.

(b) Nothing in this part alters or diminishes the professional and/or ethical obligations of licensed personnel.

Authority. Arkansas Code §§ 6-11-105, 6-24-119.

6 CAR § 238-104. General prohibition.

(a) No board member, administrator, or employee shall knowingly use or attempt to use his or her official position to secure unwarranted privileges or exemptions for:

- (1) Himself;
- (2) Herself; or
- (3) Others.

(b) While serving as a board member, administrator, or employee, an individual shall not accept employment, contract, or engage in any public or professional activity that a reasonable person would expect might require or induce him or her to disclose

any information, acquired by the board member by reason of his or her official position, that is declared by law or regulation to be confidential.

(c) No board member, administrator, or employee shall knowingly disclose any confidential information gained by reason of his or her position, nor shall the board member knowingly otherwise use such information for his or her personal gain or benefit.

(d) Nothing in this part prohibits board members, administrators, or employees of public educational entities from donating services or property to a public educational entity.

Authority. Arkansas Code §§ 6-11-105, 6-24-119.

6 CAR § 238-105. General ethical standards for nonemployees.

Any effort by a nonemployee to influence a public educational entity board member, administrator, or employee to breach the standards of ethical conduct stated in this part and Arkansas Code § 6-24-101 et seq. is a breach of ethical standards punishable under the criminal penalties set forth in Arkansas Code § 6-24-101 et seq.

Authority. Arkansas Code §§ 6-11-105, 6-24-119.

6 CAR § 238-106. Restrictions on employment of present and former administrators.

(a)(1) Unless written approval is granted by the Commissioner of Elementary and Secondary Education, it is a breach of ethical standards for an administrator to be or become the employee, agent, or independent contractor of any party contracting with the public educational entity the administrator serves.

(2) The commissioner's approval letter shall be filed with and maintained by the public educational entity employing the administrator.

(b) Unless written approval is granted by the commissioner, it is a breach of ethical standards for administrators to engage in selling or attempting to sell commodities or

services to the public educational entity they served or were employed by for one (1) year following the date employment or service ceased.

Authority. Arkansas Code §§ 6-11-105, 6-24-119.

6 CAR § 238-107. Gratuities and kickbacks.

(a) It is a breach of the ethical standards for any person to offer, give, or agree to give any board member, administrator, or employee a gratuity or an offer of employment in connection with any contract or transaction of a public educational entity.

(b) It is a breach of the ethical standards for any board member, administrator, or employee to solicit, demand, accept, or agree to accept from another person or entity a gratuity or an offer of employment in connection with any contract or transaction of a public educational entity.

(c) It is a breach of the ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a person or an entity as an inducement for the award of a contract or transaction with a public educational entity.

Authority. Arkansas Code §§ 6-11-105, 6-24-119.

6 CAR § 238-108. Emergency purchases.

(a) Any emergency purchases or contracts with a public educational entity shall be exempt from the prohibitions of this part.

(b) Emergency purchases shall:

- (1) Only be used for the preservation of life, health, or public property; and
- (2) Not be used to substantially improve the condition of an asset of the public educational entity, the board member, administrator, or employee of the public educational entity prior to the emergency.

(c) Each public educational entity shall maintain records and copies of all documentation relating to and supporting a determination that the transactions qualify as emergency purchases.

(d) Any person using emergency purchases to avoid the intent of this part shall be guilty of violating this part and shall be subject to the penalties provided for in:

- (1) This part; and
- (2) Arkansas Code § 6-24-101 et seq.

Authority. Arkansas Code §§ 6-11-105, 6-24-119.

6 CAR § 238-109. School boards.

(a) **General prohibition.** Except as otherwise provided, it is a breach of the ethical standards for a board member to contract with the public educational entity the board member serves if the board member has knowledge that he or she is directly or indirectly interested in the contract.

(b) **Employment of family members.**

(1) A board member's family member may not be initially employed by the public educational entity the board member serves during the board member's tenure of service on the local public educational entity's board for compensation in excess of five thousand dollars (\$5,000) unless the Commissioner of Elementary and Secondary Education issues a letter of exemption and approves the employment contract based on unusual and limited circumstances.

(2) The determination of unusual and limited circumstances shall be at the sole discretion of the commissioner as further defined by this part.

(3) A family member of a school board member who was employed by the public educational entity during the school year immediately preceding the election of the board member may continue employment with the public educational entity under the same terms and conditions of:

- (A) The previously executed contract; and
- (B) Any renewal of the contract under Arkansas Code § 6-17-1506.

(4) Subject to the local public educational entity's board's written policy, a qualified family member of a board member may be employed as a substitute teacher, substitute cafeteria worker, or substitute bus driver for a period of time not to exceed a total of thirty (30) days per fiscal year for the public educational entity served by the board member.

(5) No employment contract that is prohibited under this section is valid or enforceable by any party to the employment contract until approved in writing by the commissioner.

(6) The commissioner's approval of an employment contract may include restrictions and limitations that are by this section incorporated as terms or conditions of the contract.

(7) Excluding any renewal of a contract under Arkansas Code § 6-17-1506, any change in the terms and conditions of an employment contract, a promotion, or a change in employment status for a family member of a school board member employed by a public educational entity that will result in an increase in compensation of more than two thousand five hundred dollars (\$2,500) must be approved in writing by the commissioner before any change in the terms or conditions of the employment contract or promotion or changes in employment status are:

- (A) Effective;
- (B) Valid; or
- (C) Enforceable.

(c) Exceptions.

(1) School board approval.

(A) In unusual or limited circumstances, a public educational entity's board may approve a contract, but not an employment contract, between the public educational entity and the board member or the board member's family if the public educational entity's board determines that the contract is in the best interest of the public educational entity.

(B) In unusual or limited circumstances, a public educational entity's board may approve an employment contract as provided in this section.

(C)(i) The approval by the public educational entity's board shall be documented by written resolution (Appendix Form C) after fully disclosing the reasons justifying the contract or employment contract in an open meeting.

(ii) Such disclosure should include without limitation the contract disclosure form, Appendix Form B.

(iii) The resolution shall:

(a) State the unusual and limited circumstances necessitating the contract or employment contract; and

(b) Document the restrictions and limitations of the contract or employment contract.

(D) If any proposed contract or employment contract is with a family member of a board member or a board member directly or indirectly interested in the proposed contract or employment contract, then the:

(i) Board member shall leave the meeting until the voting on the issue is concluded; and

(ii) Absent board member shall not be counted as having voted.

(2) Independent approval.

(A) If it appears the total transactions or contracts with the board member or a family member for a fiscal year total or will total ten thousand dollars (\$10,000) or more, the superintendent or other chief administrator of the public educational entity shall forward the written resolution (Appendix Form C) along with all relevant data, including Appendix Form B, to the commissioner for independent review and approval.

(B) The written resolution and other relevant data shall be sent by:

(i) Certified mail, return receipt requested; or

(ii) Other method approved by the State Board of Education to:

(a) Ensure that adequate notice has been received by the Department of Education; and

(b) Provide a record for the school district board of directors sending the request for approval.

(C) Upon review of the submitted data for any contract, including an employment contract, the commissioner within twenty (20) days of receipt of the resolution and other relevant data shall approve or disapprove in writing the public educational entity's board's request.

(D)(i) The commissioner may request additional information or testimony before ruling on a request.

(ii) If additional data are needed for a proper determination, the commissioner shall approve or disapprove the contract within twenty (20) days of receipt of the additional requested data.

(E) If the commissioner does not respond to the public educational entity within the twenty-day period or request additional time or data for proper review of the contract, the contract shall be deemed to be approved by the commissioner.

(F)(i) If approved, the commissioner shall issue an approval letter stating:

(a) All the relevant facts and circumstances considered; and

(b) Any restrictions or limitations pertaining to the approval.

(ii) The commissioner may grant the approval for:

(a) A particular transaction or contract;

(b) A series of related transactions or contracts; or

(c) Employment contracts.

(iii) However, the approval shall not be granted for a period greater than two (2) complete and consecutive fiscal years, excluding employment contracts.

(G) No contract subject to the commissioner's review and approval shall be valid or enforceable until:

(i) An approval letter has been issued by the commissioner; or

(ii) The commissioner fails to respond to the public educational entity within the time periods specified in this section.

(d) **Records.** The department and the public educational entity shall maintain, under their respective record retention policies, a record and copy of all documentation relating to transactions or contracts with:

(A) Board members; or

(B) Members of their families.

(e) **Providing false or incomplete information.** Any board member or other person knowingly furnishing false information or knowingly not fully disclosing relevant information necessary for a proper determination by the public educational entity or the commissioner shall be guilty of violating the provisions of:

(1) This part; and

(2) Arkansas Code § 6-24-101 et seq.

(f) School board members should also be mindful of the requirements of Arkansas Code § 6-13-616, which prohibits school board members from being employed by the school district they serve.

Authority. Arkansas Code §§ 6-11-105, 6-24-119.

6 CAR § 238-110. Administrators.

(a) Except as otherwise provided, it is a breach of the ethical standards for an administrator to contract with the public educational entity employing him or her if the administrator has knowledge that he or she is directly or indirectly interested in the contract.

(b) Except as otherwise provided, it is a breach of the ethical standards for an administrator to contract with any public educational entity if the administrator has knowledge that he or she is directly interested in the contract.

(c) **Family members as employees.**

(1) This part does not prohibit an administrator's family members from being employed by:

(A) The public educational entity the administrator serves; or

(B) Any other public educational entity.

(2) However, a member of an administrator's family or former spouse may not be initially employed as a disbursing officer of the public educational entity where the administrator is employed unless the public educational entity receives written approval from the Commissioner of Elementary and Secondary Education.

(3) Before issuing written approval or denial, the commissioner shall request Arkansas Legislative Audit to review the internal controls, including the segregation of duties, present at the public educational entity.

(4) Arkansas Legislative Audit shall report its findings to the commissioner.

(d) Exceptions.

(1) In unusual and limited circumstances and only with prior written approval from the commissioner, an administrator may contract with a public educational entity other than the public educational entity employing him or her.

(2) In unusual and limited circumstances and only with prior written approval from the commissioner, an administrator's family members may contract with a public educational entity employing the administrator.

(3)(A) An administrator seeking to contract with other public educational entities, or an administrator's family member seeking to contract with the public educational entity employing the administrator, shall first present the request, with all relevant facts and circumstances justifying approval, to the public educational entity's board currently employing the administrator at an open meeting.

(B) Such request should include without limitation the contract disclosure form, Appendix Form B.

(4)(A)(i) After reviewing the request in an open meeting, the public educational entity's board may by written resolution (Appendix Form C) approve the contract subject to approval by the commissioner.

(ii) A copy of the approval resolution (Appendix Form C) and all relevant data, including Appendix Form B, shall be forwarded by the public educational entity's board president to the commissioner.

(B) The written resolution and other relevant data shall be sent by:

(i) Certified mail, return receipt requested; or

(ii) Other method approved by the State Board of Education to:

(a) Ensure that adequate notice has been received by the Department of Education; and

(b) Provide a record for the school district board of directors sending the request for approval.

(C) Upon review of the submitted data, the commissioner shall within twenty (20) days of receipt of the resolution and other relevant data approve or disapprove in writing the public educational entity's board's request.

(D)(i) The commissioner may request additional information or testimony before ruling on a request.

(ii) If additional data are needed for a proper determination, the commissioner shall approve or disapprove the contract within twenty (20) days of receipt of the additional requested data.

(E) If the commissioner does not respond to the public educational entity within the twenty-day period or request additional time or data for a proper review of the contract, the contract shall be deemed to be approved by the commissioner.

(F)(i) If approved, the approval letter shall state:

(a) All relevant facts and circumstances considered in the approval; and

(b) Any restrictions or limitations of the approval.

(ii) The commissioner may grant an approval for a:

(a) Particular transaction; or

(b) Series of related transactions.

(iii) No approval shall be granted for a period greater than two (2) complete and consecutive fiscal years.

(5) The department and the public educational entity shall maintain, under their respective record retention policies, a record and copy of all documentation relating to an exemption from the provisions of this part.

(6) A contract subject to this section is not valid until the commissioner:

(A) Approves the contract; or

(B) Fails to respond to the public educational entity within the time periods specified in this section.

(e) **Providing false or incomplete information.** Any administrator knowingly furnishing false information or knowingly not disclosing relevant information necessary for a proper determination by the public educational entity or the commissioner shall be guilty of violating the provisions of:

- (1) This part; and
- (2) Arkansas Code § 6-24-101 et seq.

(f) **"Contract" defined.** For the purposes of this section only, "contract" does not apply to employment contracts issued to an administrator of a public educational entity for administrative or other duties such as, but not limited to:

- (1) Teaching;
- (2) Bus driving; or
- (3) Sponsorship of clubs or activities.

(g) **Compensation for officiating athletic events.** Nothing in this section prohibits administrators from receiving compensation for officiating school-sponsored athletic activities with any public education entity.

(h) **Compensation for conducting seminars.** Nothing in this section prohibits administrators from receiving compensation for conducting seminars for, or making presentations to, public educational entities other than the public educational entity employing them.

Authority. Arkansas Code §§ 6-11-105, 6-24-119.

6 CAR § 238-111. Employees.

(a) Except as otherwise provided, it is a breach of the ethical standards for an employee to contract with the public educational entity employing him or her if the employee has knowledge that he or she is directly interested in the contract.

(b) Exceptions.

(1) Approval by public educational entity's board.

(A) In unusual and limited circumstances, a public educational entity's board may approve a contract between the public educational entity and the employee

if the public educational entity's board determines that the contract is in the best interest of the public educational entity.

(B)(i) The approval by the public educational entity's board shall be documented by written resolution, Appendix Form C, after fully disclosing the reasons justifying the contract in an open meeting.

(ii) Such disclosure should include without limitation the contract disclosure form, Appendix Form B.

(iii) The resolution shall:

(a) State the unusual circumstances necessitating the contract;
and

(b) Document the restrictions and limitations of the contract.

(C) Any public educational entity's board member directly or indirectly interested in the proposed contract shall leave the meeting until the voting on the issue is concluded, and the absent board member shall not be counted as having voted.

(2) Independent approval.

(A) If it appears that the total transactions with an employee for a fiscal year total or will total ten thousand dollars (\$10,000) or more, the superintendent or other chief administrator of the public educational entity shall forward the written resolution (Appendix Form C) along with all relevant data, including Appendix Form B, to the Commissioner of Elementary and Secondary Education for independent review and approval.

(B) The written resolution and other relevant data shall be sent by:

(i) Certified mail, return receipt requested; or

(ii) Other method approved by the State Board of Education to:

(a) Ensure that adequate notice has been received by the Department of Education; and

(b) Provide a record for the school district board of directors sending the request for approval.

(C) Upon review of the submitted data, the commissioner shall within twenty (20) days of receipt of the resolution and other relevant data approve or disapprove in writing the public educational entity's board's request.

(D)(i) The commissioner may request additional information or testimony before ruling on a request.

(ii) If additional data are needed for a proper determination, the commissioner shall approve or disapprove the contract within twenty (20) days of receipt of the additional requested data.

(E) If the commissioner does not respond to the public educational entity within the twenty-day period or request additional time or data for a proper review of the contract, the contract shall be deemed to be approved by the commissioner.

(F)(i) If approved, the commissioner shall issue an approval letter stating:

- (a) All relevant facts and circumstances considered; and
- (b) Any restrictions or limitations pertaining to the approval.

(ii) The commissioner may grant the approval for a:

- (a) Particular transaction; or
- (b) Series of related transactions.

(iii) However, approval shall not be granted for a period greater than two (2) complete and consecutive fiscal years.

(G) No contract subject to the commissioner's review and approval shall be valid or enforceable until:

- (i) An approval letter has been issued by the commissioner; or
- (ii) The commissioner fails to respond to the public educational entity

within the time periods specified in this section.

(c) **Documentation.** The department and the public educational entity shall maintain under their respective record retention policies a record and copy of all documentation relating to transactions with employees.

(d) **Providing false or incomplete information.** Any employee or other person knowingly furnishing false information or knowingly not fully disclosing relevant

information necessary for a proper determination by the public educational entity or the commissioner shall be guilty of violating the provisions of:

- (1) This part; and
- (2) Arkansas Code § 6-24-101 et seq.

(e) **"Contract" defined.** For the purposes of this section only, the term "contract" does not apply to employment contracts issued to public educational entity employees or other transactions for the performance of teaching or other related duties such as but not limited to:

- (1) Bus driving;
- (2) Sponsorship of clubs or activities;
- (3) Tutoring;
- (4) Summer school duties; or
- (5) Working at school-sponsored events.

(f) **Technology employees.** All transactions involving the purchase, lease, acquisition, or other use of computers, software, copies, or other electronic devices from family members of an employee responsible for establishing specifications or approving purchases of such equipment shall be approved according to the requirements of this section regarding the purchase from an employee with a direct interest in the transaction.

Authority. Arkansas Code §§ 6-11-105, 6-24-119.

6 CAR § 238-112. Reimbursement of expenses.

Nothing in this part prevents board members, administrators, or employees from being reimbursed by the appropriate public educational entity for necessary and documented travel or other job-related expenses in accordance with law and school district policy.

Authority. Arkansas Code §§ 6-11-105, 6-24-119.

6 CAR § 238-113. Educational awards, recognitions, grants, and gifts.

Nothing in this part prohibits administrators or employees of public educational entities from receiving monetary or other awards, grants, or benefits from entities generally recognized as providing benefits based upon exceptional skills or exemplary contributions to education.

Authority. Arkansas Code §§ 6-11-105, 6-24-119.

6 CAR § 238-114. Registration, travel, conventions, and seminars.

(a) Board members, administrators, and employees of a public educational entity are prohibited from receiving any payment or reimbursement from a vendor for any registration, travel, lodging, food, entertainment, or other expenses not directly associated with an educational interest or business interest of the public educational entity.

(b) Board members, administrators, and employees of a public educational entity are prohibited from receiving any trip or attending any convention or seminar that is paid for by a vendor when the purpose for the trip or attendance at the convention or seminar is not directly associated with an educational interest or business interest of the public educational entity.

(c) Board members, administrators, and employees of a public educational entity are prohibited from receiving any gift or award from any public educational entity except as allowed for by Arkansas law.

(d) All public educational entities shall maintain a record and copy for at least three (3) years of all documentation relating to payments or reimbursements made by a vendor on behalf of a board member, administrator, or employee for travel, lodging, food, registration, entertainment, or other expenses when the payments or reimbursements total three hundred dollars (\$300) or more per fiscal year per individual:

- (1) Board member;
- (2) Administrator; or

(3) Employee.

(e) Any board member, administrator, or employee of a public educational entity that violates any provisions of this part may be subject to the penalties and sanctions provided for in 6 CAR § 238-116.

Authority. Arkansas Code §§ 6-11-105, 6-24-119.

6 CAR § 238-115. Filing statement of financial interest.

(a)(1) Every board member, public and charter school superintendent, or executive director of a public school or educational cooperative shall timely file a financial statement of interest as required by Arkansas Code § 21-8-701 et seq.

(2) The financial statement of interest and instructions for completing and filing the financial statement of interest can be found on the website of the Arkansas Ethics Commission, <http://www.arkansasethics.com/>.

(b) Any person required to file a financial statement of interest as required under Arkansas law who fails to file said financial statement of interest:

(1) Shall be in violation of the provisions of this part; and

(2) May be subject to the sanctions and penalties provided for in 6 CAR § 238-116.

Authority. Arkansas Code §§ 6-11-105, 6-24-119.

6 CAR § 238-116. Administrative sanctions and penalties.

(a)(1) The Department of Education may review alleged violations of:

(A) This part; and

(B) Arkansas Code § 6-24-101 et seq.

(2) If the department reviews the allegations and the Commissioner of Elementary and Secondary Education determines that there is adequate evidence of a violation, the commissioner may refer the allegations to the State Board of Education for review.

(3) If a licensed educator is alleged to have violated this part or Arkansas Code § 6-24-101 et seq., the commissioner may refer the allegation or allegations against the licensed educator to the Professional Licensure Standards Board in lieu of following the procedures listed below.

(b)(1) Upon the state board's approval to review the alleged violation and after reasonable notice in writing to all parties, the state board may schedule a hearing to determine whether an administrator or employee has knowingly violated the provisions of:

(A) This part; or

(B) Arkansas Code § 6-24-101 et seq.

(2) At the state board hearing, a member of the department or a member of the Professional Licensure Standards Board staff, as appropriate, shall present the allegations against the administrator or employee.

(c) A hearing by the state board shall be subject to the following procedures:

(1)(A) Each party will have the opportunity to present an opening statement of no longer than five (5) minutes, beginning with the representative of the:

(i) Department; or

(ii) Professional Licensure Standards Board.

(B) The Chair of the State Board of Education may, only for good cause shown and upon the request of either party, allow either party additional time to present their opening statements;

(2)(A) Each party will be given thirty (30) minutes to present their cases, beginning with the representative of the:

(i) Department; or

(ii) Professional Licensure Standards Board.

(B) The chair may, only for good cause shown and upon the request of either party, allow either party additional time to present their cases;

(3) Every witness giving oral testimony:

(A) Must be sworn under oath by the court reporter; and

(B) Shall be subject to direct examination, cross examination, and questioning by the state board;

(4) For the purposes of the record, documents offered during the hearing by the department or the Professional Licensure Standards Board shall be clearly marked in sequential, numeric order (e.g. 1, 2, 3);

(5) For the purposes of the record, documents offered during the hearing by the administrator or employee shall be clearly marked in sequential, alphabetic letters (e.g. A, B, C); and

(6) The department or the Professional Licensure Standards Board shall have the burden of proving the basis for the violation by a preponderance of the evidence.

(d) After presentation of all evidence, if the state board determines that the administrator or employee knowingly violated the provisions of this part, the state board may provide any or all of the following administrative remedies:

(1) Issue a letter of reprimand; or

(2) Suspend or revoke the administrator's or teacher's Arkansas teaching license for a definite period or permanently.

(e)(1) After reasonable notice and opportunity for a hearing, a board of a public educational entity may take appropriate administrative remedies against an administrator or employee that has allegedly violated the provisions of this part.

(2) If an administrator or employee of a public educational entity is charged by the prosecuting attorney for a possible violation of this part, the public educational entity's board may, after reasonable notice and opportunity for a hearing:

(A) Place the individual charged on leave with or without pay;

(B) Dismiss the individual; or

(C) Provide any other proper administrative remedy.

(3) If the individual is dismissed by the public educational entity's board due to charges being filed for an alleged violation of this part, any employment contracts with the public educational entity shall be deemed void from the date of the action of the public educational entity's board.

Authority. Arkansas Code §§ 6-11-105, 6-24-119.

6 CAR § 238-117. Notice of potential criminal penalties.

(a) Any board member, administrator, employee, or nonemployee who shall knowingly violate the provisions of Arkansas Code § 6-24-101 et seq. shall be guilty of a felony.

(b) Upon pleading guilty or nolo contendere to or being found guilty of violating the provisions of Arkansas Code § 6-24-101 et seq., the court shall order restitution to the public educational entity.

(c) In addition, the court may:

(1) Fine the violator in any sum not to exceed the greater of:

(A) Ten thousand dollars (\$10,000); or

(B) Double the dollar amounts involved in the transactions;

(2) Sentence the violator to prison for not more than five (5) years; or

(3) Impose both a fine and imprisonment.

Authority. Arkansas Code §§ 6-11-105, 6-24-119.

6 CAR § 238-118. Request for review of transactions.

At the request of a board of a public educational entity, the executive administrator at a public educational entity, the Commissioner of Elementary and Secondary Education, or the Legislative Joint Auditing Committee, the appropriate prosecuting attorney shall review contracts or transactions for compliance with the provisions of Arkansas Code § 6-24-101 et seq.

Authority. Arkansas Code §§ 6-11-105, 6-24-119.

6 CAR § 238-119. Board position vacant upon conviction.

If a board member is found guilty of violating the provisions of Arkansas Code § 6-24-101 et seq.:

- (1) The board member shall immediately cease to be a board member;
- (2) The position is declared vacant; and
- (3) A replacement shall be named as provided by law.

Authority. Arkansas Code §§ 6-11-105, 6-24-119.

6 CAR § 238-120. Enforcement of criminal sanctions by the prosecuting attorney.

(a) It shall be the duty and responsibility of the prosecuting attorneys to:

- (1) Supervise compliance with Arkansas Code § 6-24-101 et seq.; and
- (2) Prosecute violators.

(b) If the prosecuting attorney fails or refuses to enforce this part when the facts are known by the prosecuting attorney or are called to his or her attention, the Attorney General or any citizen of this state may bring mandamus proceedings to compel the prosecuting attorney to perform his or her duties.

(c) All criminal actions related to alleged violations of this part shall be:

- (1) Filed in circuit court; and
- (2) Subject to the criminal rules and procedures of this state.

Authority. Arkansas Code §§ 6-11-105, 6-24-119.

6 CAR § 238-121. Form procedures and requirements.

(a) For purposes of this part, the following attached forms A – C are herein incorporated into this part as Appendix Forms A – C and supporting documents.

(b) A public educational entity shall use Appendix Forms A – C when such form is specifically required by any section of this part.

(c) A public educational entity seeking independent review and approval from the Commissioner of Elementary and Secondary Education shall submit a separate contract disclosure form (Appendix Form B) and written resolution (Appendix Form C) of approval for each contract involving a different party or entity.

Authority. Arkansas Code §§ 6-11-105, 6-24-119.

Appendix A. Notification Letter

Link:

<https://CodeOfARRules.arkansas.gov/docs/CARCodeAppendices/Appendices/163/6CARpt.238Appendix.pdf>