

Title 6. Education

Chapter I. Division of Elementary and Secondary Education

Subchapter H. School Districts

Part 240. Publicly Funded Educational Institution Audit Requirements

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows: "January 16, 2012".

"Authority[.] The Arkansas State Board of Education's authority for promulgating these Rules is pursuant to Ark. Code Ann. §§ 6-1-101; 6-11-105; 6-11-205; 6-12-112; 6-13-1020; 6-13-1608; 6-17-426; 6-20-1801 through 6-20-1804; 6-20-1806; 6-20-1905; 10-4-413; and Acts 981 and 993 of 2011. These Rules shall be known as the Arkansas Department of Education (ADE) Rules Governing Publicly Funded Educational Institution Audit Requirements."

Subpart 1. Generally

6 CAR § 240-101. Purpose.

The purpose of this part is to establish the requirements for the completion, filing, and review of financial audits for all publicly funded educational institutions, including but not limited to, Arkansas school districts, open-enrollment public charter schools, and education service cooperatives (auditees).

Authority. Arkansas Code § 10-4-413.

6 CAR § 240-102. Audit requirements.

(a)(1) The accounts of all publicly funded educational institutions shall be audited annually by:

- (A) Arkansas Legislative Audit; or
- (B) A private, independent certified public accountant (private auditor).

(2) A private auditor, other than Arkansas Legislative Audit, must be selected by the:

- (A) School district board; or
- (B) Governing body of the institution.

(3)(A) If a private auditor was used for the prior year audit, or if the auditee did not exist during the prior year, the auditee may request that Arkansas Legislative Audit conduct its financial audit.

(B) The written request shall be submitted to the Legislative Auditor at least ninety (90) days prior to end of the fiscal year to be audited.

(4)(A) If the publicly funded educational institution is an open-enrollment public charter school, Arkansas Legislative Audit shall prepare the required financial audit of the institution's first year of operation unless the State Board of Education approves the use of an entity other than Arkansas Legislative Audit.

(B) With the approval of the State Board of Education, an open-enrollment public charter school may retain the services of a licensed certified public accountant, or a licensed accountant in public practice, who is in good standing with the Arkansas State Board of Public Accountancy, to conduct the financial audit of its first year of operation in accordance with:

- (i) Auditing standards generally accepted in the United States; and
- (ii) Government Auditing Standards issued by the Comptroller General

of the United States.

(b) The financial statements shall be presented on a fund basis format, and as a minimum:

- (1) The general fund and the special revenue fund presented separately; and
- (2) All other funds included in the audit presented in the aggregate.

(c) The financial statements shall consist of the following:

- (1) A balance sheet;
- (2) A statement of revenue, expenditures, and changes in fund balances;
- (3) A comparison of the final adopted budget to the actual expenditures for the general fund and the special revenue funds; and

(4) Notes to the financial statements.

(d) The report shall include as supplemental information a schedule of capital assets, including:

- (1) Land;
- (2) Buildings; and
- (3) Equipment.

(e) The governing body of a school may require its annual financial audit to be performed and financial statements to be presented in accordance with guidelines prescribed by the Governmental Accounting Standards Board, the American Institute of Certified Public Accountants, and the United States Government Accountability Office as an alternate basis of presentation to that listed in subsections (c) and (d) of this section.

(f) The report must include information on:

- (1) Internal control over financial reporting;
- (2) Compliance; and
- (3) Other matters based on an audit of financial statements performed in accordance with Governmental Auditing Standards.

Authority. Arkansas Code § 10-4-413.

6 CAR § 240-103. Process and procedures for audits not conducted by Arkansas Legislative Audit.

(a) A private, independent audit not conducted by Arkansas Legislative Audit shall include at a minimum, review, comments, and findings on substantial compliance with laws governing each of the following as listed in Arkansas Code § 6-1-101:

- (1) Management letter;
- (2) Compliance with ethical guidelines for:
 - (A) Board members;
 - (B) Administrators; and
 - (C) Employees;

- (3) School elections;
- (4) Management of schools;
- (5) Revolving loan fund;
- (6) School district finances;
- (7) School district school bonds;
- (8) Certified and classified personnel policies;
- (9) Teachers' salaries;
- (10) Deposit of funds;
- (11) Investment of funds; and
- (12) Improvement contracts.

(b) Audit reports shall be presented to the school board or governing body of the auditees in a format as prescribed by professional accounting organizations.

(c)(1) All annual audits of auditees not conducted by Arkansas Legislative Audit shall be completed and filed with the Department of Education and Arkansas Legislative Audit within nine (9) months following the end of each fiscal year.

(2) At the request of the auditee, the Department of Education may grant an extension of up to ninety (90) days on the deadline specified in subdivision (c)(1) of this section.

(3) If the auditee is subject to federal circular A-133 audit requirements, any extension must first be obtained from the appropriate federal agency.

(4) All contracts initiated by the auditee for audit services with private certified public accountants shall contain a provision requiring completion of the audit and filing of the audit reports by the auditor with the Department of Education and Arkansas Legislative Audit within nine (9) months following the end of each fiscal year.

(5)(A) Any public school district or education service cooperative failing to file an audit report within the nine-month time period or within the time period under any extension granted by the Department of Education shall automatically be considered by the Department of Education to be in fiscal distress.

(B) Any school district or education service cooperative identified in fiscal distress status may appeal to the State Board of Education by filing a written appeal

with the office of the Commissioner of Elementary and Secondary Education, by certified mail return receipt requested, within thirty (30) calendar days of receipt of notice of being identified in fiscal distress status from the Department of Education.

(C) The State Board of Education shall hear the appeal within sixty (60) calendar days of receipt of the written notice of appeal from the school district or education service cooperative.

(D) The written appeal shall state, in clear terms, the reason why the school district or education service cooperative should not be classified as in fiscal distress.

(E) Notwithstanding any appeal rights in this section, no appeal shall stay the Department of Education's authority to take action to protect the fiscal integrity of any school district or education service cooperative identified as in fiscal distress.

(6) Any open-enrollment public charter school failing to file an audit report within the nine-month time period or within the time period under any extension granted by the Department of Education may be referred to the State Board of Education for possible modification, revocation, or denial of renewal of its charter pursuant to:

(A) Arkansas Code § 6-23-105; and

(B) The Department of Education's Rules Governing Public Charter Schools, 6 CAR pt. 31.

(d) By January 31 of the calendar year following the due date of the audit, the Department of Education shall notify by certified mail any auditee failing to file the required audit that the entity is considered to be in fiscal distress or is subject to having its charter:

(1) Modified;

(2) Revoked; or

(3) Denied renewal.

(e) The Department of Education shall place certified public accountants or accounting firms on an ineligible list for a determined period of time, but not more than

five (5) years from the end of the fiscal year for which the audit report was contracted to be prepared, for any of the following reasons:

(1) If in the opinion of the Department of Education or the Legislative Joint Auditing Committee, an audit report is not filed within the required time period or within a time period under any extension granted by the Department of Education or Legislative Joint Auditing Committee due to neglect or fault of the certified public accountant or accounting firm;

(2) If the Arkansas State Board of Public Accountancy's quality review committee reports to the Department of Education and the Legislative Joint Auditing Committee that an audit report shows evidence:

(A) Of lack of general conformity with applicable professional standards or state laws and rules; or

(B) That the report is substandard or seriously questionable; or

(3) Any other compelling reason the Department of Education believes justifies placing the accountant or accounting firm on the ineligibility list.

(f) Auditees should check the list of ineligible certified public accountants or accounting firms maintained by the Department of Education before entering into a contract for audit services.

(g) A certified copy of the audit shall be distributed to the:

(1) School district;

(2) Department of Finance and Administration;

(3) Division of Career and Technical Education; and

(4) Department of Education.

(h) The annual financial audit shall be filed by the auditor directly to the Legislative Auditor within ten (10) days of issuance of the audit report to the school board.

(i)(1) If the Department of Education or the Legislative Joint Auditing Committee is concerned that an audit may be substandard or seriously questionable with respect to applicable professional auditing standards, the Department of Education or the Legislative Joint Auditing Committee may file a complaint with the Arkansas State Board of Public Accountancy.

(2) The Arkansas State Board of Public Accountancy shall:

(A) Review all audit reports and working papers filed under subdivision

(i)(1);

(B) Determine whether the report is in general conformity with professional standards and state laws and rules; and

(C) Take appropriate action.

(j) Each education service cooperative is subject to an annual audit by the Legislative Joint Auditing Committee.

(k)(1) Licensed accountants shall not provide nonaudit services to a school district, education service cooperative, or open-enrollment public charter school if the licensed accountant or his or her firm is also the auditor of the:

(A) School district;

(B) Education service cooperative; or

(C) Open-enrollment public charter school.

(2) Nonaudit services include:

(A) Accounting and bookkeeping services;

(B) Financial information systems design and implementation;

(C) Appraisal, valuation, and actuarial services;

(D) Internal audit outsourcing services;

(E) Management or human resources functions;

(F) Broker or dealer, investment advisor, or investment banking services;

and

(G) Legal and expert services unrelated to the audit.

Authority. Arkansas Code § 10-4-413.

6 CAR § 240-104. Process and procedures for audits conducted by Arkansas Legislative Audit.

(a) Arkansas Legislative Audit has the authority to audit the books of any school district, open-enrollment public charter school, and education service cooperative at the request of a:

- (1) Fiscal officer; or
- (2) School district, county, or state school official.

(b)(1) Audit reports shall include all:

- (A) Findings;
- (B) Comments;
- (C) Recommendations; and
- (D) Management letters.

(2) They shall be made available to the Department of Education and the Division of Career and Technical Education upon presentation to the Legislative Joint Auditing Committee.

(c)(1) Arkansas Legislative Audit shall provide copies of every audit report performed on each school district to the county clerk of the county in which the auditee is located.

(2) The county clerk is required to keep the reports for at least two (2) years.

(d) Arkansas Legislative Audit shall annually:

- (1) Provide the department with a list of public educational entities audited by Arkansas Legislative Audit; and
- (2) Update the department on any changes throughout the year.

Authority. Arkansas Code § 10-4-413.

6 CAR § 240-105. Presentation of audit reports.

(a)(1) Audit reports, along with accompanying comments and recommendations, shall be reviewed at the first regularly scheduled school board or governing body meeting following receipt of the audit report if the audit report is received by the school board prior to ten (10) days before the regularly scheduled meeting.

(2) If the audit report is received by the board or governing body within ten (10) days before a regularly scheduled meeting, the report may be reviewed at the next regularly scheduled meeting after the ten-day period.

(b)(1) The school board or governing body of the auditee shall take appropriate action relating to each audit finding and recommendation within the audit report.

(2) The minutes of the meeting shall document:

(A) The review of the audit; and

(B) Action taken by the board or governing body.

Authority. Arkansas Code § 10-4-413.

6 CAR § 240-106. Requirements for districts in fiscal distress.

(a) If a district has been identified as being in fiscal distress by June 30 of any year, the annual audit shall be completed and filed with the Department of Education and the Legislative Joint Auditing Committee within six (6) months following the end of each fiscal year.

(b) The deadline in subsection (a) of this section for districts identified in fiscal distress may be extended up to an additional ninety (90) days if the Legislative Joint Auditing Committee determines that circumstances warrant the extension.

Authority. Arkansas Code § 10-4-413.

6 CAR § 240-107. Requirements for consolidated or annexed districts.

The district that is involved in the administrative consolidation or annexation shall have an audit started within thirty (30) days of the closing of the books by the school district.

Authority. Arkansas Code § 10-4-413.

6 CAR § 240-108. Requirements for repeat audit findings.

(a) The Legislative Joint Auditing Committee may refer an audit report of a school district to the Department of Education if:

(1) The report identifies a substantial issue of noncompliance with state or federal financial or other reporting requirements; and

(2) The same issue has been identified in two (2) consecutive audit reports.

(b)(1) The department shall submit the audit report referred to in subsection (a) of this section to the Professional Licensure Standards Board in forms approved by the department.

(2) The board shall:

(A) Investigate any referral made by the committee; and

(B) Provide a report on the disposition of all referrals no later than July 1 of each year.

Authority. Arkansas Code § 10-4-413.