

Arkansas Department of Education
Rules Governing the Succeed Scholarship Program
January 2016

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, 6-20-2301 *et seq.*, and 6-41-101 *et seq.*, and Act 1178 of 2015.
- 1.02 These Rules shall be known as the Arkansas Department of Education (ADE) Rules Governing the Succeed Scholarship Program.

2.00 Purpose

- 2.01 The purpose of these Rules is to establish guidelines for the implementation of the Succeed Scholarship Program in order to provide a scholarship to a private school of choice for students with disabilities that have an individualized education program in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 *et seq.*

3.00 Definitions

- 3.01 "Department" or "ADE" is the Arkansas Department of Education.
- 3.02 "Scholarship Payment" is a disbursement to the parent or legal guardian of a student participating in the Succeed Scholarship Program contingent upon appropriation and funding for the purpose of implementing the Succeed Scholarship Program.
- 3.03 "School 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 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 and Title 6 of the Arkansas Code. For the purposes of these Rules, all references to "school district" include open enrollment public charter schools, except as waived by the State Board of Education pursuant to Ark. Code Ann. § 6-23-301 *et seq.*
- 3.04 "School Year" is the year beginning July 1 of one calendar year and ending June 30 of the next calendar year.

- 3.05 "Severely Disabled" is an individual that has an individualized education program in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 *et seq.*

4.00 Student Eligibility

- 4.01 A parent or legal guardian of a public school student with a disability may apply for a Succeed Scholarship to enroll his or her child in a private school if:
- 4.01.1 The student is currently enrolled in a public school district and has attended public school for at least the one (1) full school year immediately prior to the school year for which the scholarship payments would be disbursed;
 - 4.01.1.1 If the student is a dependent of an active duty member of any branch of the United States armed forces, Section 4.01.1 does not apply.
 - 4.01.2 The student has an individualized education program in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 *et seq.*; and
 - 4.01.3 The student has been accepted for admission into a private school that is eligible to participate in the Succeed Scholarship Program.
- 4.02 The parent or legal guardian shall:
- 4.02.1 Apply for the scholarship at least sixty-five (65) days before the date of the first scheduled scholarship payment for the private school to which the student has been accepted for admission; and
 - 4.02.2 Notify the superintendent of the student's current and resident school district(s) within five (5) business days of submitting the application.
- 4.03 If a student is accepted for admission into a private school upon the availability of space, a parent or legal guardian shall notify the student's current and resident school district(s) at least sixty (60) days before the student enrolls in the private school and thereby becomes eligible for scholarship payments for attending that private school.
- 4.04 If the parent or legal guardian of a student already participating in the program wishes to participate in the program in the upcoming school year and to enroll the student for the upcoming school year in a private school from the list of private schools eligible to participate in the program other than the participating private

school in which the student is currently enrolled, the parent or legal guardian shall follow the full application process contained in these Rules.

4.04.1 Sections 4.01.1, 4.02.2, and 4.03 of these Rules shall not apply to a student already participating in the program.

4.04.2 Section 4.01.2 shall be construed as requiring that the student had an individualized education program in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 *et seq.* upon the student's initial participation in the program.

4.04.3 Approval of an application under Section 4.04 is not guaranteed.

5.00 Private School Eligibility

5.01 A private school shall notify the Department of its intent to participate in the Succeed Scholarship Program.

5.01.1 The notice shall specify the grade levels and services that the private school has available for severely disabled students who are participating in the program.

5.01.2 The notice shall contain a complete description of the private school's disciplinary procedures, code(s) of conduct, and parental involvement requirements.

5.01.2.1 The Department shall maintain a record of the descriptions under Section 5.01.2 and make the record available on the Department's website.

5.02 The Department shall approve a private school as eligible to participate in the program if the private school:

5.02.1 Meets the accreditation requirements set by:

5.02.1.1 The State Board of Education;

5.02.1.2 The Arkansas Nonpublic School Accrediting Association or its successor; or

5.02.1.3 Another accrediting association recognized by the State Board of Education as providing services to severely disabled individuals.

- 5.02.1.4 The Arkansas Nonpublic School Accrediting Association and any other accrediting association(s) recognized by the State Board of Education under Section 5.02.1.3 shall submit to the Department, on an annual basis, a complete list of private schools currently accredited under the authority of its association.
- 5.02.1.5 The Arkansas Nonpublic School Accrediting Association and any other accrediting association(s) recognized by the State Board of Education under Section 5.02.1.3 shall notify the Department of loss of accreditation of any private school accredited under the authority of its association within thirty (30) days of the loss of accreditation.
- 5.02.2 Demonstrates fiscal soundness by having been in operation for one (1) school year or providing the Department with a statement by a certified public accountant confirming that:
 - 5.02.2.1 The private school is insured; and
 - 5.02.2.2 The private school has sufficient capital or credit to operate in the upcoming school year.
 - 5.02.2.3 In lieu of a statement, a surety bond or letter of credit for the amount equal to the scholarship funds for any quarter may be filed with the Department.
- 5.02.3 Complies with the antidiscrimination provisions of 42 U.S.C. § 2000d;
- 5.02.4 Meets state and local health and safety requirements and maintains an environment in which the health, safety, and welfare of students is not threatened;
- 5.02.5 Is academically accountable to the parent or legal guardian for meeting the educational needs of students;
- 5.02.6 Employs or contracts with only teachers who hold baccalaureate or higher degrees;
- 5.02.7 Employs or contracts with at least one (1) teacher who holds a current, valid standard license in special education issued by the State Board of Education;
 - 5.02.7.1 If, at any point following approval under Section 5.02, an eligible private school no longer employs or contracts with

at least one (1) teacher who holds a current, valid standard license in special education, the private school shall notify the parent(s) or legal guardian(s) of any student(s) participating in the program enrolled in or regularly attending the private school within five (5) days.

5.02.7.2 If, at any point following approval under Section 5.02, an eligible private school no longer employs or contracts with at least one (1) teacher who holds a current, valid standard license in special education, the private school shall notify the State Board of Education or the State Board of Education's designee within twenty (20) days.

5.02.8 Complies with all state laws and rules governing private schools; and

5.02.9 Adheres to the tenets of its published disciplinary procedures before an expulsion of a student participating in the program.

5.03 The Department shall maintain a list of private schools eligible to participate in the program and make the list available on the Department's website.

5.04 An eligible private school shall administer annually or make provisions for a student participating in the program to take a nationally recognized, norm-referenced test as established by the State Board of Education.

5.04.1 A student with an individualized education program that provides for an exemption to standardized testing is not required to take the test required under Section 5.04.

5.04.2 An eligible private school shall annually prepare a portfolio that provides information on a student's progress to the student's parent or legal guardian if a student is exempt from standardized testing as permitted under Section 5.04.1.

5.05 An eligible private school shall notify the State Board of Education or the State Board of Education's designee if any student participating in the program ceases to be enrolled in or regularly attend the private school for any reason.

5.06 The inability of a private school to meet the requirements under these Rules shall constitute a basis for the ineligibility of the private school to participate in the Succeed Scholarship Program as determined by the State Board of Education or the State Board of Education's designee.

5.07 Any instance of an owner, operator, superintendent, or principal of, or a person who has equivalent decision-making authority over, a private school participating in the Succeed Scholarship Program operating or having operated an educational

institution in Arkansas or in another state or jurisdiction in a manner contrary to the health, safety, or welfare of the public shall constitute a basis for the ineligibility of the private school to participate in the program as determined by the State Board of Education or the State Board of Education's designee.

6.00 Responsibilities of Participating Students

6.01 The parent or legal guardian of a student participating in the Succeed Scholarship Program shall:

6.01.1 Select the private school from the list of private schools eligible to participate in the program that is maintained by the Department;

6.01.2 Fully comply with the parental involvement requirements of the private school unless excused by the school for illness or other good cause;

6.01.3 Sign a waiver that releases the State of Arkansas from any legal obligation to provide services or education to the student participating in the program except for funding provided for the program under these Rules;

6.01.4 Sign a waiver that releases the student's resident school district from any legal obligation to provide services or education to the student participating in the program while the student is not enrolled in the student's resident school district as provided under these Rules;

6.01.5 Notify the State Board of Education or the State Board of Education's designee if the student ceases to be enrolled in or regularly attend the private school for any reason.

6.01.6 Correspond with the Department annually to inform the Department of intent to maintain enrollment in a private school eligible to participate in the program in order to continue the disbursement of scholarship payments.

6.02 A student participating in the program shall:

6.02.1 Attend the private school throughout the school year unless excused by the school for illness or other good cause; and

6.02.1.1 If the parent or legal guardian of a student participating in the program who has ceased to be enrolled in or regularly attend the private school wishes to enroll the student in another private school from the list of private schools

eligible to participate in the program prior to the end of the school year, the parent or legal guardian shall:

6.02.1.1.1 Provide proof to the Department that the student has been accepted for admission into another private school that is eligible to participate in the program; and

6.02.1.1.2 Request that the State Board of Education approve a reinstatement of the student's scholarship payments.

6.02.1.1.3 No more than one (1) such request may be made within the same school year.

6.02.2 Fully comply with the code of conduct for the private school.

6.03 The State Board of Education may terminate a scholarship if the student or the student's parent or legal guardian materially fails to comply with the responsibilities under these Rules.

7.00 Scholarship Payments – Funding

7.01 The maximum scholarship available under the Succeed Scholarship Program is the foundation funding amount for the current school year under Ark. Code Ann. § 6-20-2305.

7.02 The amount of the scholarship shall be the amount calculated under Section 7.01 or the amount of tuition and fees for the private school, whichever is less.

7.03 Scholarship payments shall be disbursed to the parent or legal guardian of a student participating in the Succeed Scholarship Program on a monthly basis by the Department or another state agency, person, firm, or corporation designated by the Department to administer and disburse funds.

7.03.1 If the Department designates a third party to administer funds, scholarship payments shall be by individual warrant made payable to the student's parent or legal guardian and delivered by the Department to the third party, and the parent or legal guardian shall restrictively endorse the warrant to the private school of the parent's or legal guardian's choice after which the third party shall deposit the payment into the account of the private school.

7.04 Beginning on July 1, 2015, the Department shall prepare a budget, including cost estimates and projections so that a separate appropriation can be made for the program for the 2016-2017 school year.

7.04.1 For the 2016-2017 school year, the program shall be limited to 100 students.

7.05 The program shall be funded separately from the Public School Fund and other funds or appropriations designated for public schools.

7.06 The program shall not be funded with county, city, or school district tax revenues.

8.00 Rules and Duties

8.01 The State Board of Education shall adopt rules and develop notices and other documentation necessary to administer the Succeed Scholarship Program that are in the best interest of students.

8.02 The State Board of Education shall not:

8.02.1 Become a party to a contract between a participating private school and the parent or legal guardian of a student participating in the program; or

8.02.2 Make payments to the parent or legal guardian of a student after the State Board of Education is notified from either a participating school or a student's parent or legal guardian that the student is no longer enrolled in or attending a participating private school.

8.02.3 Make payments to the parent or legal guardian of a student enrolled in or attending a private school that the State Board of Education has determined is ineligible to participate in the program.

9.00 Autonomy of Participating Private Schools

9.01 A private school that participates in the Succeed Scholarship Program is not considered an agent or instrumentality of the State of Arkansas or a school district.

9.02 The curriculum and education plan for a student with a disability attending a private school is not subject to the regulatory authority of the State Board of Education.

9.03 As a condition of continued participation in the program, each participating private school shall:

9.03.1 Certify under oath, on a semiannual basis, that any student(s) participating in the program is/are and has/have been enrolled and attending the participating private school except for excused absences.

Application for Succeed Scholarship Program

Private School



Complete this form & return to the Arkansas Department of Education.

Name of School: _____

Person Completing Form: _____

Title: _____

E-mail: _____

School Address:

School Phone:

Street and/or Route Number

Voice

City, State ZIP

Fax

A1. Please specify the grade levels and services that your school has available for students with severe disabilities who are participating in the program. Attach pages if necessary.

Grades Levels: _____

Types of Services: _____

A2. Please submit as an attachment a copy of your school's disciplinary procedures, code(s) of conduct, and parental involvement requirements.

I verify that this documentation is attached. Initial: _____

B1. Please verify that your school meets the accreditation requirements set by the State Board of Education, the Arkansas Nonpublic School Accrediting Association, or another accrediting association recognized by the State Board of Education as providing services to severely disabled individuals.

Accrediting Authority: _____
Initial: _____

B2. Please verify that your school demonstrates fiscal soundness by one (1) of the following methods and submit as an attachment proof as necessary:

The school has been in operation for one (1) school year.
Initial: _____

OR

A statement by a certified public accountant is attached confirming that:

- The school is insured; and
- The school has sufficient capital or credit to operate in the upcoming school year.

If statement is necessary, I verify that this documentation is attached.
Initial: _____

OR

A surety bond or letter of credit for the amount equal to the scholarship funds for any quarter has been filed with the Arkansas Department of Education's Fiscal & Administrative Services Division.

If surety bond or letter of credit is necessary, I verify that this documentation is attached.
Initial: _____

B3. Please verify that your school complies with the antidiscrimination provisions of 42 U.S.C. § 2000d.

I verify that the school is in full compliance. Initial: _____

B4. Please verify that your school meets state and local health and safety requirements and maintains an environment in which the health, safety, and welfare of students is not threatened. It is recommended that each employee and contracted personnel with direct student contact, upon employment, or engagement to provide services, undergo a state and national background screening and that a complete set of fingerprints be taken by an authorized law enforcement agency or an employee of the private school or a private company who is trained to take fingerprints and that employment should be denied or terminated if an employee fails to meet the screening standards.

I verify that the school meets all requirements and maintains such an environment.

Initial: _____

B5. Please verify that your school is academically accountable to the parent(s) or legal guardian(s) of any student(s) participating in the Succeed Scholarship Program for meeting the educational needs of students.

I verify that the school is academically accountable to parents/legal guardians of students participating in the program.

Initial: _____

B6. Please verify that your school employs or contracts with only teachers who hold baccalaureate or higher degrees.

I verify that the school employs or contracts with only teachers who hold such degrees.

Initial: _____

B7. Please verify that your school employs or contracts with at least one (1) teacher who holds a current, valid standard license in special education issued by the Arkansas State Board of Education and submit as an attachment proof as necessary. It is recommended that the teacher(s) hold licensure appropriate for the grade level(s) for your school's special education program(s).

I verify that the school employs or contracts with at least one (1) teacher who holds a current, valid standard license in special education issued by the Arkansas State Board of Education, and that if, at any point following the school's approval to participate in the Succeed Scholarship Program, the school no longer employs or contracts with at least one (1) such teacher, I affirm that the school will notify the parents/legal guardians of students participating in the program enrolled in or regularly attending the school within five (5) days and that the school will notify the State Board of Education or its designee within twenty (20) days.

Type of Proof Submitted: _____

Initial: _____

B8. Please verify that your school complies with all state laws and regulations governing private schools.

I verify that the school is in full compliance. Initial: _____

B9. Please affirm that your school will adhere to the tenets of its published disciplinary procedures before an expulsion of a student participating in the Succeed Scholarship Program.

I affirm that the school will adhere to the tenets of its published disciplinary procedures before expelling a student participating in the program.

Initial: _____

C1. Please affirm that your school will administer annually or make provisions for a student participating in the Succeed Scholarship Program to take a nationally recognized, norm-referenced test as established by the State Board of Education and that your school will prepare a portfolio that provides information on a student's progress to the student's parent or legal guardian if a student has an individualized education program that provides for an exemption to standardized testing.

I affirm that the school will administer such standardized tests annually and that the school will accommodate students with IEPs that exempt them from standardized testing.

Initial: _____

C2. Please affirm that your school will notify the State Board of Education or the State Board of Education's designee if any student participating in the Succeed Scholarship Program ceases to be enrolled in or regularly attend the school for any reason.

I affirm that the school will notify the State Board of Education or its designee if any student participating in the program ceases to be enrolled in or regularly attend the school.

Initial: _____

Signature: _____

Date: _____

Application for Succeed Scholarship Program

Parent/Legal Guardian



Complete this form & return to the Arkansas Department of Education
NO LESS THAN SIXTY-FIVE (65) DAYS BEFORE DATE OF FIRST SCHOLARSHIP PAYMENT

Name: _____

Date of Birth: _____ SSN: _____ - _____ - _____

Address: _____ Phone: _____

Street and/or Route Number _____ Day Phone _____

City, State ZIP _____ Night Phone _____

E-mail: _____

1. Please verify that your child/ward meets one (1) of the following:

I verify that _____ is currently enrolled in a
Student's Name
public school and has attended public school for at least the one (1) full school year immediately
prior to the school year for which the scholarship payments would be disbursed and that I am
submitting as an attachment proof of enrollment;

Name of School District: _____

Type of Proof Submitted: _____

OR

I verify that _____ is a dependent of an active
Student's Name

duty member of any branch of the United States armed forces, to whom this enrollment requirement does not apply and that I am submitting as an attachment proof of active duty status.

Active Duty Member: _____
PLEASE PRINT NAME

Type of Proof Submitted: _____

OR, BEGINNING WITH THE 2017-2018 SCHOOL YEAR,

I verify that _____ is a student already
Student's Name
participating in the program, to whom this enrollment requirement does not apply.

Name of Private School: _____

2. Please affirm or verify one (1) of the following statements:

I affirm that _____ has an individualized
Student's Name
education program (IEP) in accordance with the Individuals with Disabilities Education Act,
20 U.S.C. § 1400 *et seq.*

OR, BEGINNING WITH THE 2017-2018 SCHOOL YEAR,

I verify that _____ is a student already
Student's Name
participating in the program and that he/she had an individualized education program (IEP) in
accordance with the Individuals with Disability Education Act, 20 U.S.C. § 1400 *et seq.* upon
his/her initial participation in the program.

**3. I verify that _____ has been accepted for
Student's Name
admission into a private school that is eligible to participate in the Succeed Scholarship Program
and that I am submitting as an attachment proof of his/her acceptance.**

Name of Private School: _____

Type of Proof Submitted: _____

4. Please affirm or verify one (1) of the following statements:

I affirm that I will notify _____ 's current
Student's Name
and resident school district(s), if he/she is not already participating in the program as noted above, of
this request for a scholarship within five (5) days of submitting this application;

OR

I verify that _____ has been accepted for
Student's Name
admission into the above-named private school upon the availability of space and affirm that I will
notify his/her current and resident school district(s), if he/she is not already participating in the
program as noted above, at least sixty (60) days before he/she enrolls in the private school and
thereby becomes eligible for scholarship payments for attending that private school.

OR, BEGINNING WITH THE 2017-2018 SCHOOL YEAR,

I verify that _____ is a student already
Student's Name
participating in the program, to whom this notification requirement does not apply.

**5. I verify that I will fully comply with the parental involvement requirements of the above-named
private school unless excused by the school for illness or other good cause.**

**6. I verify that I have signed a waiver that releases the State of Arkansas from any legal obligation to
provide services or education to _____ except for
Student's Name
funding provided for the program and that I am submitting this signed waiver as an attachment.**

**7. I verify that I have signed a waiver that releases _____ 's
Student's Name
resident school district from any legal obligation to provide services or education to him/her while
he/she is not enrolled in the resident school district and that I am submitting this signed waiver as
an attachment.**

8. I affirm that I will notify the State Board of Education or the State Board of Education's designee

if _____ ceases to be enrolled in or regularly

Student's Name

attend the above-named private school for any reason.

9. I affirm that I will correspond with the Arkansas Department of Education annually to inform the

Department of intent to maintain enrollment in the above-named private school *in order to continue*

the disbursement of scholarship payments.

PLEASE READ THE FOLLOWING CAREFULLY:

PURSUANT TO THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (IDEA) 20 U.S.C. § 1412(a)(10)(A), A CHILD WITH A DISABILITY PLACED BY HIS OR HER PARENT(S) OR LEGAL GUARDIAN(S) IN A PRIVATE SCHOOL DOES NOT HAVE AN INDIVIDUAL RIGHT TO RECEIVE THE SPECIAL EDUCATION AND RELATED SERVICES THAT THE CHILD WOULD RECEIVE IF ENROLLED IN A PUBLIC SCHOOL. PUBLIC SCHOOLS ARE NOT REQUIRED TO PROVIDE A FREE APPROPRIATE PUBLIC EDUCATION TO STUDENTS WITH DISABILITIES ENROLLED BY THEIR PARENT(S) OR LEGAL GUARDIAN(S) IN PRIVATE SCHOOL. BY ENROLLING YOUR CHILD IN A PRIVATE SCHOOL, YOU AND THE STUDENT ARE NO LONGER ENTITLED TO THE PROCEDURAL SAFEGUARDS GRANTED BY THE IDEA, INCLUDING NOTICE AND DISCIPLINE PROCEDURES, AND DO NOT HAVE THE RIGHT TO FILE A STATE COMPLAINT OR THE RIGHT TO A DUE PROCESS HEARING FOR ALLEGED VIOLATIONS OF IDEA, EXCEPT FOR CHILD FIND (20 U.S.C. § 1412(a)(10)(A)).

I HAVE READ THE ABOVE EXPLANATION OF RIGHTS. I FULLY UNDERSTAND ITS TERMS AND UNDERSTAND THAT I AM GIVING UP SUBSTANTIAL RIGHTS BY SIGNING BELOW. I HAVE SIGNED IT FREELY AND VOLUNTARILY AND WITHOUT ANY INDUCEMENT, ASSURANCE, OR GUARANTEE BEING MADE TO ME.

Signature: _____

Date: _____

SUCCEED SCHOLARSHIP PROGRAM WAIVER FORM

(Do not modify/revise form)

Arkansas Code Annotated § 6-41-704, requires that parents and guardians of students participating in the Succeed Scholarship Program sign a waiver acknowledging that the State of Arkansas is under no obligation to provide services or education to their children except for funding provided specifically for the Program during the time the parent or guardian chooses to enroll their children in private school.

By my signature below, I hereby certify and agree as follows:

- 1) I am the parent or legal guardian of the child(ren) listed below.
- 2) I have fully read and understand the terms of this waiver.
- 3) As of the date I sign this waiver, I hereby acknowledge that the State of Arkansas is under no obligation to provide services or education to the child(ren) listed below except for funding provided specifically for the Succeed Scholarship Program during the time I choose to enroll my child(ren) in private school.

Please print clearly and legibly. Give student's Legal Name.

STUDENT FIRST, MIDDLE, & LAST NAME	DATE OF BIRTH

Signature of Parent/Guardian

Date

Address:

Phone:

Street and/or Route Number

Day Phone (Include Area Code)

City, State ZIP

Night Phone (Include Area Code)

SUCCEED SCHOLARSHIP PROGRAM WAIVER FORM

(Do not modify/revise form)

Arkansas Code Annotated § 6-41-704, requires that parents and guardians of students participating in the Succeed Scholarship Program sign a waiver acknowledging that the resident school district is under no obligation to provide services or education to their children during the time the parent or guardian chooses to enroll their children in private school.

By my signature below, I hereby certify and agree as follows:

- 1) I am the parent or legal guardian of the child(ren) listed below.
- 2) I have fully read and understand the terms of this waiver.
- 3) As of the date I sign this waiver, I hereby acknowledge that the resident school district is under no obligation to provide services or education to the child(ren) listed below during the time I choose to enroll my child(ren) in private school.

Please print clearly and legibly. Give student's Legal Name.

STUDENT FIRST, MIDDLE, & LAST NAME	DATE OF BIRTH

Signature of Parent/Guardian

Date

Address:

Phone:

Street and/or Route Number

Day Phone (Include Area Code)

City, State ZIP

Night Phone (Include Area Code)