The LEARNSing Curve: Navigating Arkansas Education Law

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A Short Survey of The LEARNS Act

Three years later, the Literacy, Empowerment, Accountability, Readiness, Networking, and Safety Act ("LEARNS Act" or the "Act") continues to reshape Arkansas education law. This article surveys the Act's major provisions: (1) the Education Freedom Account program, (2) repeal of the Teacher Fair Dismissal Act, and (3) Teacher Salary—and highlights ongoing litigation and practical issues confronting school districts and their attorneys.

Introduction

On March 8, 2023, Governor Sarah Huckabee Sanders signed Senate Bill 294 into law as Act 237 of 2023, a 145-page omnibus bill that is now known as the LEARNS Act.[1] The legislation touched nearly every corner of Arkansas K–12 education law, from teacher pay and personnel policies to school choice, literacy standards, and school safety.[2] The LEARNS Act also spawned an overhaul of some state Education Department administrative rules and necessitated creation of dozens of new sets of rules.[3] Criticism of the Act abounded.[4] All told, the Act is now law, and Arkansas practitioners serving school districts, educators, parents, and private institutions are left to traverse the evolving landscape and advise their clients under its frameworks.

The Education Freedom Account Program

Section 42 of the Act created the Arkansas Children's Educational Freedom Account ("EFA") Program, commonly referred to as "vouchers." It is a phased-in universal school choice initiative codified at Ark. Code Ann. §§ 6-18-2501 through 6-18-2511.[5] The EFA program provides eligible students with up to 90% of the state's prior-year per-student foundation funding—approximately $6,856 to $7,617 per student—to cover allowable educational expenses, including private school tuition and, beginning in the 2024–2025 school year, homeschooling costs.[6]

In the 2025–2026 school year the EFA program became universally available to all Arkansas K–12 students.[7] Participation grew rapidly and currently over 44,000 students are receiving EFA funds.[8] The state appropriation for the program has likewise expanded, from roughly $35 million in 2023–2024 to $277 million in 2025–2026.[9] The program requires participating schools to comply with accreditation standards, administer annual assessments, submit to random audits, and refrain from violation of state procurement laws and procedures.[10] The EFA program was intended to place school choice decisions in the hands of families and provide choices concerning their access to public, private, charter, and homeschools. However, this wider access has presented legal and practical hurdles.

The EFA program currently faces two constitutional challenges practitioners should monitor closely. In Pulaski County Circuit Court, four plaintiffs allege the program violates Articles 14 and 16 of the Arkansas

Constitution by redirecting public funds to private schools.[11] In December 2025, the Arkansas Supreme Court rejected the state's sovereign-immunity defense, holding the claims to be illegal-exaction claims that may proceed.[12] Intervening parents who benefit from the program won the right to defend it in a similar ruling.[13]

A parallel federal action raises claims under the First and Fourteenth Amendments.[14] The Establishment Clause claim—the surviving cause of action—centers on allegations that approximately 80 percent of the 128 participating private schools are sectarian institutions that incorporate religious doctrine into curriculum, and that the state uses public tax revenues to pay those schools' tuition.[15] Plaintiffs contend this arrangement constitutes government funding of religious instruction without safeguards.[16] The Little Rock School District has moved to intervene, arguing it suffers concrete institutional injury each time a student leaves the district through the EFA program.[17] U.S. District Judge D.P. Marshall Jr. has set trial for July 12, 2027.[18] With over 44,000 students participating and roughly $300 million appropriated for the 2025–2026 school year, the outcome carries enormous practical and fiscal consequences for districts, private schools, and families across the state. Given the amount of time that has elapsed since the development of Arkansas's education funding formula, especially with the advent of the EFA accounts, there have been rumblings of amending and overhauling the state's funding formula again, which would have significant legal ramifications.

Repeal of the Teacher Fair Dismissal Act ("TFDA") and Arkansas Public School Employee Fair Hearing Act ("APSEFHA")

The Act repealed the TFDA of 1983 and APSEFHA in their entirety.[19] Under the TFDA, teacher contracts were automatically renewed annually and it provided substantive and procedural protections against termination and non-renewal of contracts.[20] Termination required "incompetent performance, conduct which materially interferes with the continued performance of the teacher's duties, repeated or material neglect of duty, or other just and reasonable cause."[21] Non-probationary teachers—those with three or more consecutive years in the district—could appeal adverse decisions to the circuit court.[22] The procedural requirements were extensive.

With the TFDA's repeal, automatic contract renewal no longer exists, and schools must affirmatively decide to issue teacher contracts annually.[23] For termination during the school year, the Act specifies that employees retain a right to notice of a superintendent's recommendation for termination and a hearing, but it does not guarantee those same procedural protections when a contract expires and a new one is not issued.[24] Attorney General Tim Griffin confirmed this distinction by concluding that state law requires a hearing only for recommended terminations—not for non-renewals—and that employees may pursue non-renewal grievances under existing grievance-policy procedures so long as they are aware of their non-renewal status.[25] The APSEFHA provided similar protections as the TFDA to non-licensed (classified) staff, and was also repealed by the Act.

The repeal, combined with the prohibition on local districts offering personnel rights greater than state law provides, has created practical challenges. Schools are now tasked with adopting compliant board policies that maintain orderly procedures without running afoul of the Act.[26] Likewise, schools must carefully navigate the decision to not issue a teacher a new contract, notices, and timelines due to a lack of formal guidance. A common pitfall for practitioners to remain keenly aware of here is that just because Arkansas law doesn't impose per se legal ramifications when a school district decides to not issue a new contract to a teacher, federal discrimination statutes such as Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, and the Age Discrimination in Employment Act still apply.[27] These statutes necessitate analysis by schools when they decide to not offer a new contract, to ensure they have adequate documentation that such a decision was not made for a discriminatory reason, such as on the basis of age, race, religion, gender, national origin, etc.[28] Even absent the TFDA, schools cannot take "adverse employment action" against teachers for a discriminatory reason. Upticks in EEOC charges and litigation on this front have occurred in Arkansas after the Act's passing.

These difficulties, among others, may ultimately prompt legislative action. For example, a bill to reinstate the TFDA was filed during the 2025 legislative session but did not advance out of committee.[29]

Teacher Compensation

Among the most immediate changes for schools in the Act was the restructuring of teacher compensation. The Act raised the minimum base salary for classroom teachers from $36,000 to $50,000 and guaranteed every teacher a raise of at least $2,000 for the 2023–2024 school year.[30] Simultaneously, the Act eliminated Arkansas's longstanding salary schedule, which provided incremental yearly increases based on experience and education.[31] The result was teacher salary compression across the state. Research from the University of Arkansas Department of Education Reform found that 55% of Arkansas districts had salary schedules entirely below $50,000 before the Act and transitioned thereafter to flat schedules paying all teachers congruently regardless of seniority.[32]

The initial 2023–2024 raises were funded by $183 million in new state funds; however, the Act didn't guarantee continued funding for salaries after that initial year. Instead, it directed the Department of Education to create a fund to distribute revenues to "qualifying" districts.[33] Eligibility is determined by several conditions and importantly includes a requirement that schools not adopt personnel policies that "provide more rights to personnel than those provided under state law."[34] If these funds are important to schools, a thorough review of personnel and employment policies is necessary to determine parallel compliance with LEARNS requirements.

While not yet formally reviewed by the courts, it has been argued that the new compensation framework is unconstitutional under Article 14, Section 1 of the Arkansas Constitution because it increases disparities in teacher pay across districts, contrary to the adequacy principles established in *Lake View School District No. 25 v. Huckabee and DuPree v. Alma School District*.[35] Whether the courts will revisit these adequacy doctrines in the context of the LEARNS Act or whether there will be a comprehensive overhaul of the state's funding formula remains to be seen.

Conclusion

The LEARNS Act was a watershed moment in the realm of education law, as shown through some of the illustrative examples described in this article. As the Arkansas Department of Education further develops administrative rules and courts are called on to interpret the Act, greater certainty seems likely to follow. Meanwhile, Arkansas lawyers will continue to do what we do best: provide wise counsel in the face of the unknown with creativity, where precedent is scarce and the law leaves details to our interpretation.

Endnotes:

1. LEARNS Act, No. 237, 2023 Ark. Acts 975.

2. Id.

3. Current Rules, Ark. Div. of Elementary & Secondary Educ., https://dese.ade.arkansas.gov/Offices/Legal/CurrentRules (last visited June 19, 2026).

4. Ali Noland, Loads of Questions Demand Answers Before Arkansas LEARNS Goes Up for a Vote, Ark. Times (Feb. 21, 2023).

5. LEARNS Act, No. 237, 2023 Ark. Acts 975, § 42; Ark. Code Ann. § 6-18-2502.

6. Ark. Code Ann. § 6-18-2505(a)(1); 2024-25 Ark. Educ. Freedom Accounts Program Annual Report, at 3 (Oct. 2025).

7. Ark. Code Ann. § 6-18-2506.

8. Legislative Council Approves Adding $90 Million to Education Freedom Account Program, Ark. Senate (June 2025), https://senate.arkansas.gov/senate-news/posts/2025/06/legislative-council-approves-adding-90-million-to-education-freedom-account-program/; Josh Snyder, Judge Sets 2027 Trial Date in Lawsuit Challenging LEARNS School Choice Program, Ark. Democrat-Gazette (Mar. 2, 2026).

9. See Pls.' Br. in Resp. to Defs.' Mot. to Dismiss at 13, Faulkenberry v. Ark. Dep't of Educ., No. 4:25-cv-592-DPM, Doc. 16 (E.D. Ark. Aug. 18, 2025).

10. Ark. Code Ann. § 6-18-2504(b).

11. Compl., Faulkenberry v. Ark. Dep't of Educ., No. 60CV-24-4630, Doc. 1 (Pulaski Cnty. Cir. Ct. June 7, 2024).

12. Ark. Dep't of Educ. v. Faulkenberry, 2025 Ark. 203, 725 S.W.3d 199.

13. Lara v. Faulkenberry, 2025 Ark. 205, 725 S.W.3d 26.

14. Compl., Faulkenberry v. Ark. Dep't of Educ., No. 4:25-cv-592-DPM, Doc. 1 (E.D. Ark. June 13, 2025).

15. Id. ¶¶ 5–6.

16. Pls.' Br. in Resp. to Defs.' Mot. to Dismiss at 49–50, Faulkenberry v. Ark. Dep't of Educ., No. 4:25-cv-592-DPM, Doc. 16 (E.D. Ark. Aug. 18, 2025).

17. LRSD's Am. Compl. in Intervention ¶¶ 11–12, Faulkenberry v. Ark. Dep't of Educ., No. 4:25-cv-592-DPM, Doc 39-1 (E.D. Ark. Feb. 25, 2026).

18. Scheduling Order, Faulkenberry v. Ark. Dep't of Educ., No. 4:25-cv-592-DPM, Doc. 41 (E.D. Ark. Feb. 27, 2026).

19. LEARNS Act, No. 237, 2023 Ark. Acts 975, § 33.

20. Ark. Code Ann. § 6-17-1506(a)-(b) (repealed 2023).

21. Ark. Code Ann. § 6-17-1507(a) (repealed 2023).

22. Ark. Code Ann. § 6-17-1510(d)(1) (repealed 2023).

23. See Megan Prettyman Halford, State Takeover: How the LEARNS Act Limits Local School Board Policy Concerning Teacher Terminations and Renewals, 14.2 Ark. J. Soc. Change & Pub. Serv. 33 (2025).

24. Ark. Code Ann. § 6-13-636(d)(1)(E); see Ark. Att'y Gen. Op. No. 2024-042, at 2 (Apr. 19, 2024).

25. Id. at 3.

26. Halford, supra note 24, at 41; see also Jim Ross, LRSD Board Wrangles with New Teacher Contract Law Under LEARNS, Ark. Times (Apr. 12, 2024).

27. 42 U.S.C. § 2000e-2 (Title VII) (prohibiting discrimination based on "race, color, religion, sex, or national origin"); 42 U.S.C. § 12112 (ADA) (prohibiting disability discrimination); 29 U.S.C. § 623 (ADEA) (prohibiting age discrimination).

28. Id.

29. H.B. 1025, 95th Gen. Assemb. Reg. Sess. (Ark. 2025).

30. Ark. Code Ann. § 6-17-2403(a)(1), (b)(1).

31. See Christian Barnard, Arkansas K-12 Education Finance Series: Teacher Pay Before and After the 2023 LEARNS Act, Reason Foundation (Oct. 21, 2024).

32. Gema Zamarro et al., Changes in Teacher Salaries Under the Arkansas LEARNS Act, EDRE Research Brief 2023-02, at 5 (rev. Mar. 7, 2024).

33.Barnard, supra note 32; see Tye G. Boudra-Bland, Inadequate Pay: Gutting Teacher's Compensation in the LEARNS Act, 47 U. Ark. Little Rock L. Rev. 639, 651 (2025).
34. Ark. Code Ann.§ 6-17-2403(a)(2)(B)(i).
35. Boudra-Bland, supra note 34, at 641; see also Lake View Sch. Dist. No. 25 v. Huckabee, 351 Ark. 31, 91 S.W.3d 472 (2002); DuPree v. Alma Sch. Dist. No. 30, 279 Ark. 340, 651 S.W.2d 90 (1983).

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