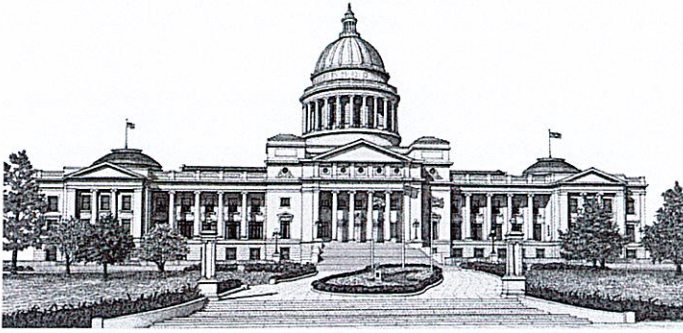


ARKANSAS REGISTER

Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



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For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Arkansas Department of Education

Department Arkansas State Library

Contact Shastady Wagner E-mail shastady.wagner@ade.arkansas.gov Phone 501-682-1958

Statutory Authority for Promulgating Rules Ark. Code Ann. § 13-2-201 and §§ 13-2-210-13-2-214

Rule Title: ASL Rules Governing State and Federal Document Depository Programs

Intended Effective Date

(Check One)

Date

☐ Emergency (ACA 25-15-204)

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☐ Other _____
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Reviewed by Legislative Council 5/19/2023

Adopted by State Agency 2/10/2023

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Shastady Wagner

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5/19/2023

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Shastady Wagner
Signature

501-682-1958

Phone Number

shastady.wagner@ade.arkansas.gov

E-mail Address

Attorney Supervisor

Title

5/19/2023

Date

**Arkansas State Library Rules Governing the
State and Federal Documents Depository Programs
Effective May 29, 2023**

A. Introduction

Part A.1 Purpose and scope.

(a) **Purpose** Act 489 of 1979 of the Arkansas General Assembly created the Arkansas State Library and provided broader responsibilities than those of the State Library Commission. Among the new obligations are those relating to Federal, State, and local publications as described in Section 8 of Act 489, and in A.C.A. § 13-2-201, and § 13-2-210 – 13-2-214. The purpose of this rule is to implement procedures needed to administer the documents programs.

(b) **Federal regional depository library.** The State Library shall serve as the regional depository library for Federal documents received from the U.S. Government Publishing Office (GPO) through its Federal Depository Library Program.

(c) **Official Depository for State and Local Documents.** The State Library shall maintain the official depository collection of State and local documents printed or issued by government entities and state-supported institutions of higher learning within Arkansas.

(d) **State and Local Government Publications Clearinghouse.** The State Library shall maintain the State Publications Clearinghouse to gather and distribute documents to the State Depository Library System.

(e) **Agencies and document submissions.** All Arkansas State government entities, state-supported institutions of higher learning and local governments must furnish one copy of each of their publications for the State Library's permanent depository collection. Additional copies of each publication shall be furnished to the State Library as required by the Clearinghouse.

(f) **Depository libraries.** The State Library will enter into depository agreements with libraries throughout the State to supply these libraries with copies of Arkansas State and local publications. The libraries shall make these publications available for use by the general public.

Part A.2 Definitions.

As used in this rule, the terms below have the following meaning:

(a) **State agencies** include the General Assembly and its committees, constitutional officers, and any department, division, bureau, board, commission, or agency of the State of Arkansas, including state-supported institutions of higher learning.

(b) **Local governments** include Arkansas cities of the first and second class and incorporated towns, and counties, and all boards, commissions, and agencies thereof.

(c) **State and local publications** include any document issued or printed by any State agency or local government which may be released for distribution, whether in tangible or digital format.

(d) **Printed** means all forms of printing and duplication.

(e) **Issued** means all forms of dissemination, including digital formats.

(f) **Clearinghouse** means the State and Local Government Publications Clearinghouse, the Digital Services section of the State Library charged with the distribution of publications to depository libraries.

(g) **Depository libraries** mean those libraries which enter into a contract with the Arkansas State Library to receive publications from the Clearinghouse. A depository library may elect to become a:

- i. **“Select”** depository library that receives only Standard Depository Requirement publication types.
- ii. **“Full”** depository library that receives the complete collection of documents obtained by the Clearinghouse for distribution.
- iii. **Digital** depository library that provides onsite access to documents that are only received and disseminated by the Clearinghouse in digital formats.

(h) **Regional depository library** is the designation given by the U.S. Government Publishing Office to libraries that agree to receive and retain in perpetuity at least one copy of all tangible publications made available to the Federal Depository Library Program.

B. Federal Regional Depository Library

Part B.1 Designation.

The State Library was designated as a regional depository library by U.S. Senator Dale Bumpers- and A.C.A. § 13-2-210 enables the Arkansas State Library to assume the role.

Part B.2 Responsibilities.

The Arkansas State Library shall adhere to the responsibilities of regional libraries listed in 44 U.S.C. 1909-1916 and the *Legal Requirements and Program Regulations of the Federal Depository Library Program* issued by the U.S. Government Publishing Office’s Office of the Superintendent of Documents.

C. Official Depository for State and Local Documents

Part C.1 Established at the Arkansas State Library.

A.C.A. § 13-2-210 establishes the Arkansas State Library as the official depository of State and local documents. The official collection was established July 1, 1980.

Part C.2 Contracts.

The Arkansas State Library may enter into contracts or agreements with Mullins Library of the University of Arkansas or with the library of any other Arkansas State-supported institution of higher learning.

Through contract or agreement, the State Library may provide any of the duties or functions of any of said libraries pertaining to State or local publications, or to provide depository library services on behalf of the libraries.

Part C.3 Collection.

(a) Maintenance.

- i. Materials submitted in accordance with Part E.4 of these rules shall constitute and be maintained as a separate Arkansas Documents collection at the Arkansas State Library.
- ii. Rules promulgated by State government and submitted to the Arkansas State Library in accordance to the Administrative Procedures Act per A.C.A. §25-15-204(e)(1)(B) shall be maintained as a separate collection at the Arkansas State Library.

(b) Classification. Arkansas State Library staff shall assign Arkansas document classification numbers to all Arkansas State and local publications received. Classification numbers shall be available to depository libraries through communications from the Clearinghouse.

(c) Cataloging. Arkansas State Library staff shall catalog State and local publications according to the current professional standards developed by the Library of Congress.

- i. Bibliographic records shall be created according to the Resource Description and Access (RDA) cataloging standard, using the Machine-Readable Cataloging Record (MARC) format.
- ii. Bibliographic records for digital items hosted in the State Library's online repository shall be created according to the RDA cataloging standard, using a qualified Dublin Core metadata schema. Each Dublin Core element in a digital record shall be mapped to a single MARC field so that digital items may be cross-cataloged, with linked records viewable in both the repository and online public catalog.

Part C.4 Access.

Any Arkansas State or local document held by the State Library, or a duplication thereof, shall be available to any person. In the case of a copyrighted work, the State Library will be governed by the Fair Use provisions of 17 U.S. Code as pertains to photocopying such a work.

(a) Depository materials received pursuant to E.4(a) must be used onsite at the Arkansas State Library, and are not available for lending.

(b) Clearinghouse copies received pursuant to E.4(b) are available for lending by the Arkansas State Library.

(c) A duplication will be provided of any State or local document the Arkansas State Library deems unsuitable for lending or handling due to its physical condition.

D. State and Local Government Publications Clearinghouse

Part D.1 Relationship with State and local agencies.

The Clearinghouse shall maintain a network of liaisons representing each state agency or local government to facilitate communication between the Arkansas State Library and each state or local agency concerning the deposit of documents or rules. The Clearinghouse shall make every effort to form new and maintain existing contacts among state and local agencies.

The Arkansas State Library shall provide training to agency liaisons concerning depository submission procedures, including the types of documents and proper number of copies to submit.

Part D.2 Services to depository libraries.

(a) **Document shipments.** The Clearinghouse shall send State and local publications received for distribution to depository libraries on a regular basis. A shipping list shall be included that notes tangible items sent with each shipment, as well as new digital documents made available between shipping intervals.

(b) **Document copies.** The Clearinghouse shall furnish each depository library with a tangible copy of each State and local publication according to its elected designation.

Part D.3 Inspections.

The Clearinghouse staff shall make periodic inspections of all depository libraries to determine that this rule and related guidelines are followed. If an inspection shows that a library is not fulfilling the obligations set forth in Part F, the Clearinghouse staff will work with the depository librarian to eliminate the deficiency. Should the library be found unwilling or unable to comply with the standards of Part F.3, such failure to comply will be deemed grounds for termination of the depository contract by the Arkansas State Library.

Part D.4 Training.

(a) **Depository libraries.** The Digital Services Staff shall provide basic training to all designated personnel responsible for State documents in depository libraries. Additional training or consultation shall be provided as needed.

(b) **Agency liaisons.** The Digital Services Staff shall provide orientation sessions and training to all designated agency liaisons. Additional training or consultation shall be provided as needed.

E. Agencies and Document Submissions

Part E.1 Agency liaison.

(a) **Designation.** Each agency director shall designate one or more agency employees to serve as a liaison with the State Library. Changes in the designation of a liaison shall be communicated by the appropriate agency official to the Clearinghouse.

- i. State and local agency liaisons should be designated based on convenience to said agency. An agency may choose to designate more than one liaison to represent an individual division, unit or section.
- ii. The liaison shall have knowledge of the organizational structure of their department and the documents it produces to aid State Library staff as needed in the classification of agency documents.
- iii. The liaison may establish a network of other staff within an agency to assist with identifying and sending publications to the Arkansas State Library.

(b) **Responsibilities.** Liaisons shall be responsible for submitting documents to the Arkansas State Library, ensuring required certification and submissions forms are complete, and communicating with Arkansas State Library staff concerning related issues.

Part E.2 Submission of agency publications.

The agency liaison shall ensure that the number of copies required by the State Library are submitted, upon release by the agency, to this address:

Digital Services
Arkansas State Library
900 W. Capitol Ave., Suite 100
Little Rock, AR 72201

(a) **Depository copy.** All State agencies and local governments shall furnish the State Library with one official permanent depository copy of each publication issued, including each document noted in subdivisions (a)(1), (2), (3), and (6) of A.C.A. § 13-2-201. Exemptions to the depository requirement are listed in (a)(4) and (5) of A.C.A. § 13-2-201.

(b) **Clearinghouse copies.** The number of copies varies according to the types of documents being submitted but depends primarily on the format in which the document is published and disseminated by the agency. The number of copies and document types required by the Clearinghouse are set forth in the State Documents Depository Program Guidelines.

- i. **Print Format.** The Clearinghouse has the authority to request up to fifty copies of most State and local publications issued in print format, but will only request enough to distribute one copy to each depository library and to satisfy the four copies required for the Arkansas State Library's collections in Parts C.4 and C.5(a).
- ii. **Digital Format.** For documents published and distributed exclusively in digital format, the Clearinghouse must receive a copy of the digital file and the URL at which it is published, if applicable.
- iii. **Print and Digital Format.** For documents published and distributed in both print and digital formats, the Clearinghouse must receive a minimum of four copies of the print version to satisfy the depository and interlibrary loan copy requirements. In addition to the print copies, the Clearinghouse must receive a copy of the digital file and the URL at which it is published, if applicable.

Part E.3 Standard Depository Requirement (SDR).

By submitting the SDR to the Clearinghouse, an agency ensures that a copy of the publication is sent to each depository library and included in the official State Documents Depository at the Arkansas State Library. The SDR is set at four copies for the Arkansas State Library plus one copy for each select and full depository. The SDR may be reduced when only a small printing run is made.

Part E.4 Limited Depository Requirement (LDR).

When distribution of a publication is made only to full depositories, agencies should submit enough copies to fill the LDR. The LDR is set at four copies for the Arkansas State Library plus one for each full depository.

Part E.5 Reduction of Standard Depository Requirement.

(a) **Waivers.** When a documents liaison sees that a printing run is too small to fill the SDR without a financial hardship on the agency, the liaison may request a waiver from the Clearinghouse to reduce the number of copies required for submission. Each waiver shall specify the number of copies to be supplied by the agency accordingly:

<u>Printing Run</u>	<u>Depository Requirement</u>
300 or more copies	SDR
100-299 copies	LDR
1-99 copies	4 copies

(b) **Type waivers.** Certain publication types are determined by the Clearinghouse to be appropriate for inclusion only in the Arkansas State Library's collections. The SDR is waived for these publication types, and four copies are required by the Clearinghouse. These document types are listed in the State Documents Depository Program Guidelines.

(c) **Exemptions.**

- i. Some publication types are determined by the Clearinghouse to be unnecessary for retention by any depository. Agencies need not supply any copies of these to the State Library. Exempted document types are noted in the Documents Depository Program Guidelines.
- ii. Exemptions to the requirement of submitting three copies of a publication to the Clearinghouse for interlibrary loan purposes are noted in A.C.A. § 13-2-201(a). These specific exemptions do not apply to the official permanent depository copy which must be submitted to the State Library.
- iii. Exemptions to the requirement of submitting a single depository copy to the State Documents Depository collection are listed in (a)(4) and (5) of A.C.A. § 13-2-201.

Part E.6 Queries.

Agency liaisons are encouraged to consult with the Clearinghouse any time they are uncertain about the types and number of documents they are required to submit, or whether specific documents are exempt or otherwise unsuitable for inclusion in the State Documents Depository.

F. Depository Libraries

Part F.1 Designation.

(a) **Arkansas libraries.** The State Librarian shall invite any library within the State to apply for selection as either a full, select, or digital depository library of State and local documents. Libraries must show evidence of being able to meet the standards for eligibility. From those applications, the State Librarian shall name the institutions meeting the standards for eligibility that are to be depository libraries. The Arkansas State Library shall enter into a formal library contract with each of the designated depository libraries.

(b) **Interstate exchange.** The Arkansas State Library may enter into interstate library exchange agreements with the document clearinghouse authorities in other states, and may enter into deposit agreements with major national research libraries.

Part F.2 Ownership of publications.

The Arkansas State and local documents sent to depository libraries from the Clearinghouse are the property of the people of Arkansas. The Arkansas State Library and the depository libraries act as custodial agents for this material. Should a library give up its depository status, all depository documents held by that library will revert to the custody of the Clearinghouse. At that time, the Clearinghouse shall issue instructions to the former depository concerning the withdrawal of the depository documents held by that library.

Part F.3 Standards for eligibility

(a) **Location.** The State Library shall encourage the establishment of at least one (1) full depository in each of the five Library Development Districts of the State. There shall be no more than eight (8) depository libraries within a Library Development District.

(b) **Space.** Depositories shall provide adequate space to house the documents. Space allotted to Arkansas State and local documents shall be of a quality equal to that in use for shelving other library materials.

(c) **Collection maintenance.** The Arkansas State and local documents collection shall be maintained in an orderly, systematic manner. Bibliographic records providing access to the material shall be available for patron use.

- i. **Receipt records.** A minimum record of receipt of documents from the Clearinghouse shall be retention of shipping lists.
- ii. **Processing interval.** All State and local documents shall be processed and shelved within thirty days after their receipt.
- iii. **Document classification.** The depository need not use the Arkansas documents classification numbers used by the Clearinghouse, but it must alternatively apply some well-established classification system to tangible depository material to facilitate shelving and retrieval. Tangible documents need not be maintained as a separate collection.
- iv. **Cataloging documents.** Tangible documents integrated into other collections shall be cataloged as other titles in that collection. Libraries may, but are not required to, ingest catalog records provided by the Arkansas State Library for digital documents.
- v. **Claims.** Tangible documents listed on a shipping list that are not included in the shipment, or the receipt of defective or damaged copies, should be claimed within thirty days of receipt of the shipping list.
- vi. **Retention.** The depository shall dispose of documents only in accordance with policies established by the Clearinghouse.

(d) **Reference service.** All depository libraries shall employ a librarian trained to provide satisfactory reference services to its patrons in the use of State documents.

(e) **Public access.** All depository libraries must ensure tangible documents are available for public use and interlibrary loan to all non-depository libraries. Libraries must provide access via public computers to digital documents contained in the State Library's online repository.

(f) **Inspection.** The depository library shall permit representatives of the Clearinghouse to inspect the facilities provided by the library for the storage and use of all State publications distributed to it under this agreement. The depository will supply any information which may be requested by the State Library in connection with the depository program.

(g) **Training.** Designated personnel for State documents in depository libraries shall be required to take any mandatory training provided by the Clearinghouse.

Part F.4 Dissolving the depository contract.

(a) **Termination.** Each depository library shall agree to this rule and related guidelines when entering a contract with the Arkansas State Library. Failure to comply may result in a termination of the contract by the Arkansas State Library as provided in Part D.3.

(b) **Rescission.** The depository library may relinquish the depository status on written notice to the State Librarian. The notice shall state the reason why the library desires to terminate the contract. Upon termination of the contract by either party as a consequence of this section or Part D.3, the Clearinghouse shall issue instructions to the depository library regarding the disposition of the depository documents held by that library.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT _____
DIVISION _____
PERSON COMPLETING THIS STATEMENT _____
TELEPHONE NO. _____ FAX NO. _____ EMAIL: _____

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

SHORT TITLE OF THIS RULE

1. Does this proposed, amended, or repealed rule have a financial impact? Yes No
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
Yes No
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If an agency is proposing a more costly rule, please state the following:

- a) How the additional benefits of the more costly rule justify its additional cost;
- b) The reason for adoption of the more costly rule;
- c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and
- d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Total _____

b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____

Total _____

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ _____

\$ _____

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ _____

\$ _____

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.