

**~~ARKANSAS DEPARTMENT OF EDUCATION  
RULES GOVERNING DISTANCE LEARNING  
March 1, 2012~~**

**~~1.00 REGULATORY AUTHORITY~~**

~~1.01 — These rules shall be known as Arkansas Department of Education Rules Governing Distance Learning.~~

~~1.02 — These rules are enacted pursuant to the State Board of Education’s authority under Ark. Code Ann. §§ 6-16-136; 6-47-201 through 6-47-203; 6-47-301 through 6-47-305; 6-47-401 through 6-47-406; 6-47-501 through 6-47-504; 25-15-201 et seq.; and Act 1075 of 2011.~~

**~~2.00 PURPOSE~~**

~~It is the purpose of these rules to set reasonable guidelines for the statewide coordination of distance learning, planning and implementation of the Arkansas Distance Learning Development Program, and Arkansas Distance Learning Grants. These rules do not apply to professional development activities.~~

**~~3.00 DEFINITIONS~~**

~~For the purposes of these rules:~~

~~3.01 — “Adult Facilitator” is the person responsible for supervising and assisting the students at the receiving site. The adult facilitator must be an adult approved by the school district.~~

~~3.02 — “Asynchronous” is a distance learning technology where the student is not receiving live or real time instruction from a teacher and typically utilizes the Internet.~~

~~3.03 — “Appropriately Licensed or Approved Instructor” is a teacher either licensed to teach the content of the required course in a public school in Arkansas or approved by the Commissioner of the Arkansas Department of Education to teach the content through distance learning technology. The intent of the approval process is to provide flexibility for the approval of teachers of programs originating from outside Arkansas, exceptionally qualified individuals within the state who may not meet licensure requirements, or teachers of courses that do not have an appropriate licensure requirement.~~

~~3.03.1 For teachers requiring approval by the Commissioner of Education to teach content through distance learning technology, the following procedures shall apply:~~

~~3.03.1.1 Not later than thirty (30) days prior to the date upon which the teacher intends to begin instruction, the superintendent of the public school district or director of the open enrollment public charter school offering distance learning shall submit to the Commissioner of Education a written request for approval that includes the following information:~~

~~3.03.1.1.1 The name of the teacher and the name of the educational entity with which the teacher is employed;~~

~~3.03.1.1.2 A list of the courses for which the teacher plans to provide instruction;~~

~~3.03.1.1.3 Copies of out of state licenses currently possessed by the teacher;~~

~~3.03.1.1.4 Copies of educational transcripts from each institution of higher education attended by the teacher; and~~

~~3.03.1.1.5 A resume or curriculum vitae of the teacher that lists experience in teaching and education.~~

~~3.03.1.2 Within twenty (20) days of receiving the written request, the Commissioner of Education shall, in writing, approve the request, deny the request or request additional information.~~

~~3.03.2 The decision of the Commissioner of Education concerning approval or disapproval of the request shall be final.~~

~~3.04 “Bell schedule” is the daily schedule of classes including the time each class is scheduled to begin and end.~~

~~3.05 “Commissioner” means the Commissioner of Education.~~

~~3.06 “Department” means the Department of Education.~~

~~3.07 “Distance Learning” is an interactive telecommunications system that utilizes information technology, audio, video, and similar technological elements, is compatible with other distance learning networks, and is used for the purpose of enhancing instruction in Arkansas public schools.~~

~~3.08 “Distance Learning Course” is a course that is made available by using distance-learning technology.~~

~~3.09 “Infrastructure” means an interlinked system of wires, cables, fiber optics, or other wire line or wireless communications media.~~

~~3.10 “Primary Instructor” is the appropriately licensed or approved educator responsible for:~~

~~3.10.1 Ensuring the course content is aligned with the appropriate Arkansas Curriculum Framework or similar course outline approved by the Department or by the Department of Career Education;~~

~~3.10.2 Providing direct instruction as necessary; and~~

~~3.10.3 Supervising the administration of student assessments.~~

~~3.11 “Receiving Site” is a physical location where one or more students is receiving distance learning.~~

~~3.12 “Sending site” is the physical location of a primary instructor providing synchronous direct instruction.~~

~~3.13 “State Board” means the State Board of Education.~~

~~3.14 “Supplemental Instruction” is instruction used to reinforce or enrich a course or to provide the student an educational opportunity outside of the normal course structure.~~

~~3.15 “Synchronous” is a distance learning technology where the student is receiving live or real time instruction from a teacher and typically utilizes compressed interactive video.~~

#### ~~4.00 PURPOSE AND INTENT OF DISTANCE LEARNING IN ARKANSAS~~

~~4.01 The Arkansas General Assembly found that:~~

~~4.01.1 Arkansas public schools face a serious shortage of teachers;~~

~~4.01.2 Educational technology can help lift the burden of teacher shortages by making distance learning available across the state; and~~

~~4.01.3 Distance learning should be available to every Arkansas student who wishes to participate.~~

~~4.02 — The intent of the Arkansas General Assembly is that the planning and implementation of distance learning should create opportunities for innovation in education, transform institutional behavior, and prepare students for participation in the information age economy.~~

~~4.03 — The purpose of the General Assembly with regard to distance learning is:~~

~~4.03.1 To provide for the establishment, organization, and administration of a distance learning program designed to improve course offerings available to students throughout the state; and~~

~~4.03.2 Demonstrate the efficiency of using distance learning to enhance elementary and secondary education and prepare students for greater success in a postsecondary educational environment.~~

~~4.04 — The purpose of the General Assembly with regard to distance learning grants is:~~

~~4.04.1 To make available distance learning in every school district in the state; and~~

~~4.04.2 Assist school districts in receiving advanced high school courses, advanced placement courses, enriched course content, or other academic courses not otherwise available in the school district.~~

## ~~5.00 — DEPARTMENT OF EDUCATION COORDINATION AND REPORTING~~

~~5.01 — The Department shall work with the Arkansas School for Mathematics, Sciences, and the Arts, the Arkansas Educational Television Commission, the educational service cooperatives, and other state agencies involved in distance learning in implementing distance learning.~~

~~5.02 — The Department shall work together with the Department of Higher Education to implement distance learning throughout the state.~~

## ~~6.00 — DISTANCE LEARNING COORDINATING COUNCIL~~

~~6.01 — The purpose of the Distance Learning Coordinating Council is to evaluate distance learning activities for kindergarten through grade twelve (K-12) education across the State of Arkansas and to determine whether distance learning activities are being fully utilized through a collaborative process that maximizes the utilization of the state's technical and educational resources.~~

~~6.02 — The Distance Learning Coordinating Council consists of the following members:~~

- ~~6.02.1 One (1) member who is an employee of the Department appointed by the Commissioner;~~
- ~~6.02.2 One (1) member who is an employee of the Arkansas Educational Television Network appointed by the Director of the Educational Television Division of the Department of Education;~~
- ~~6.02.3 One (1) member who is an employee of the Arkansas School for Mathematics, Sciences and the Arts appointed by the Director of the Arkansas School for Mathematics, Sciences, and the Arts;~~
- ~~6.02.4 One (1) member who is an employee of the Office of Information Technology appointed by the Office of Information Technology or its successor agency;~~
- ~~6.02.5 One (1) member who is an employee of the Department of Information Services appointed by the Director of the Department of Information Services;~~
- ~~6.02.6 One (1) member who is an employee of the Arkansas Science and Technology Authority appointed by the President of the Arkansas Science and Technology Authority;~~
- ~~6.02.7 One (1) member who is an employee of the Department of Career Education appointed by the Director of the Department of Career Education;~~
- ~~6.02.8 One (1) member who is employed by the Department of Higher Education appointed by the Director of the Department of Higher Education;~~
- ~~6.02.9 One (1) member who is an employee of the Arkansas State Library appointed by the State Librarian;~~
- ~~6.02.10 One (1) member who is an employee of an education service cooperative appointed by the Governor from a list of three (3) names submitted by the State Board;~~
- ~~6.02.11 One (1) member who is actively engaged in distance learning activities for grades kindergarten through twelve (K-12) education appointed by the Governor from the state at large;~~
- ~~6.02.12 Two (2) members who are employed by telecommunications companies that are members of the Arkansas Telecommunications-~~

~~Association and appointed as follows:~~

~~6.02.12.1 — One (1) member shall be employed by a telecommunications company with more than seventy five thousand (75,000) access lines and shall be appointed by the Governor from a list of three (3) names submitted by the association; and~~

~~6.02.12.2 — One (1) member shall be employed by a telecommunications company with less than seventy five thousand (75,000) access lines and shall be appointed by the Governor from a list of three (3) names submitted by the association; and~~

~~6.02.13 — Members added by the Commissioner to the Distance Learning Coordinating Council to represent other entities that are associated with grades kindergarten through twelve (K-12) distance learning and that come into existence after September 1, 2005.~~

~~6.03 — Members shall serve three year terms and are eligible for reappointment.~~

~~6.03.1 — If a vacancy occurs in an appointed position for any reason, the vacancy shall be filled in the same manner as the original appointment.~~

~~6.03.2 — The members of the Distance Learning Coordinating Council shall meet and organize immediately after their appointment and shall elect a chair, a vice chair, and a secretary treasurer from the membership of the Distance Learning Coordinating Council.~~

~~6.03.3 — The Distance Learning Coordinating Council shall meet at least quarterly.~~

~~6.03.4 — Staff support shall be provided by appropriate personnel from the Department of Education, the Department of Career Education, the Department of Higher Education, the Division of Public School Academic Facilities and Transportation, the Division of Public School Accountability, and the state's public institutions of higher education with the assistance of any appropriate staff of the other agencies whose directors serve on the Distance Learning Coordinating Council.~~

~~6.03.5 — Non-state employee members shall serve without compensation but may receive expense reimbursement in accordance with Ark. Code Ann. § 25-16-902.~~

~~6.04 — The Distance Learning Coordinating Council shall make recommendations at least annually to the Department of Education, the Division of Public School Academic Facilities and Transportation, the Division of Public School Accountability, the~~

~~House Committee on Education, and the Senate Committee on Education with regard to the following:~~

- ~~6.04.1 Distance learning standards and rules;~~
- ~~6.04.2 Online distance learning curriculum;~~
- ~~6.04.3 Supplemental distance learning course material;~~
- ~~6.04.4 Coordination of distance learning services;~~
- ~~6.04.5 Methods for fostering collaborative processes by which distance learning content can be shared more effectively with and delivered to public schools;~~
- ~~6.04.6 Strategies for reducing the occurrences of isolated distance learning activities;~~
- ~~6.04.7 Options for spreading distance learning costs and increasing the value of shared distance learning services; and~~
- ~~6.04.8 Improving utilization of distance learning resources.~~

#### ~~7.00 REQUIREMENTS FOR THE ADMINISTRATION OF DISTANCE LEARNING IN ELEMENTARY AND SECONDARY SCHOOLS~~

- ~~7.01 An elementary or secondary school may offer instruction through distance learning provided by any provider approved by the Department or by the Department of Career Education.~~
- ~~7.02 Courses offered through distance learning shall include, without limitation:
 
  - ~~7.02.1 College preparatory courses, including, without limitation, calculus, physics, Arkansas history, foreign languages, and computer science; and~~
  - ~~7.02.2 Technological courses, including, without limitation, advanced math and science courses, advanced computer skills courses, and advanced courses in the arts.~~~~
- ~~7.03 Any distance learning course must be approved by the Department or by the Department of Career Education before the course is offered or taught by any public school district or open enrollment public charter school unless:
 
  - ~~7.03.1 The distance learning course content is aligned with the appropriate content standards and curriculum frameworks developed and approved by the State Board of Education or Department of Career Education; or~~~~

- ~~7.03.2 The course is not offered for credit.~~
- ~~7.04 All distance learning courses shall have an appropriately licensed or approved primary instructor.~~
- ~~7.05 Each receiving site shall have an adult facilitator to:~~
- ~~7.05.1 Supervise any instructional activity where students meet as a group; and~~
- ~~7.05.2 Administer all student achievement assessments used to determine a student's final grade.~~
- ~~7.06 Student achievement assessments shall be designed to assess the degree to which a student masters the approved content standards and curriculum framework for the distance learning course.~~
- ~~7.06.1 Documentation of student achievement assessments shall be maintained at the receiving site for a minimum of five (5) years after the final grade for the student has been issued. Documentation shall include the assessment questions, student responses, and the grade for each student assessment and grading period.~~
- ~~7.06.2 Student achievement assessment documentation shall be available for review by the Department to ensure compliance with the approved content standards and curriculum framework.~~
- ~~7.07 Distance learning that is purely supplemental instruction shall be considered an enhancement to the teacher's regular instruction and shall not be subject to the restrictive provisions of these rules.~~
- ~~7.08 The combined number of students at the receiving and sending site(s) shall determine class size for synchronous distance learning.~~
- ~~7.09 Class size for synchronous distance learning courses shall be the same as for courses not taught by distance learning as specified in the Arkansas Standards for Accreditation. Class size requirements do not apply to asynchronous distance learning instruction.~~
- ~~7.10 Student interaction with the primary instructor or an appropriately licensed teacher(s) shall be available at a ratio of not more than 30 students per class and 150 students each day for both synchronous and asynchronous courses.~~
- ~~7.11 These rules provide minimum distance learning educational supervision requirements only and are not designed to replace legal or other student supervision responsibilities schools have to properly protect and supervise students.~~



~~7.12 — In order to assist school districts in scheduling distance learning courses, make distance learning available to every Arkansas student, and coordinate distance learning calendars of distance learning course providers, the Department shall on an annual basis work with public school districts, open enrollment public charter schools, and distance learning providers to determine the best possible distance learning calendar(s) to meet the distance learning scheduling needs of school districts.~~

~~7.13 — Any public school district or open enrollment public charter school offering synchronous distance learning courses shall:~~

~~7.13.1 — Adopt a calendar and bell schedule that is consistent with the distance learning course provider's schedule and that permits students to optimally participate in synchronous distance learning and local courses;~~

~~7.13.2 — Adopt a calendar that permits students to take both synchronous distance learning courses and local school courses;~~

~~7.13.3 — Align its calendar and the calendar of any synchronous distance learning courses in such a way that students taking synchronous distance learning courses are able to participate in the courses without missing more than five (5) days; and~~

~~7.13.4 — Abide by the policy adopted by the synchronous distance learning course provider for making up any missed days.~~

## ~~8.00 ARKANSAS DISTANCE LEARNING DEVELOPMENT PROGRAM~~

~~8.01 — The Arkansas Distance Learning Development Program shall be conducted by the Department and administered through the Commissioner.~~

~~8.02 — The Arkansas Distance Learning Program shall have four (4) focus areas:~~

~~8.02.1 — To help alleviate the increasing shortage of available qualified teachers;~~

~~8.02.2 — To provide additional course scheduling opportunities for students currently forced to choose between courses that are scheduled infrequently or concurrently;~~

~~8.02.3 — To provide an opportunity for students to access an enriched curriculum and additional courses beyond those mandated by the Standards for Accreditation of Arkansas Public Schools and School Districts; and~~

~~8.02.4 — To develop and make available online professional development and instructional resources for all teachers and administrators.~~

~~8.03 — The funding necessary to carry out the provisions of this section may be derived from donations, grants or legislative appropriation.~~

~~8.03.1 — The Commissioner may solicit and receive donations and grants for the purpose of administering the Arkansas Distance Learning Program.~~

~~8.03.2 — All donations, grants, and appropriations received shall be accounted for by the Department.~~

~~8.03.3 — Fund balances may be carried over from one year to the next to continue the Arkansas Distance Learning Program.~~

~~8.04 — The Commissioner shall review the implementation of the Arkansas Distance Learning Program annually and make recommendations to the State Board regarding the number and amount of awards to ensure that the purpose of the Arkansas Distance Learning Program is achieved.~~

~~8.05 — The Commissioner may enter into contracts or provide grants to local education agencies, education service cooperatives, or other entities for personnel, facilities, and services necessary to implement the Arkansas Distance Learning Program.~~

~~8.06 — Students taking courses through the Arkansas Distance Learning Program shall be considered entitled to any public education credits and grades assigned through the Arkansas Distance Learning Program and those credits shall be accepted by all public schools in the State of Arkansas.~~

## ~~9.00 — PARTICIPATION IN DISTANCE LEARNING COURSES BY HOME-SCHOOL AND PRIVATE-SCHOOL STUDENTS~~

~~9.01 — Except as provided in Section 9.02 of these rules, a public school district or open enrollment public charter school may offer and teach distance learning courses to a student enrolled in a private school or a home school only if:~~

~~9.01.1 — The student resides in the public school district where the public school or open enrollment public charter school is located;~~

~~9.01.2 — The student agrees to physically attend the public school or open enrollment public charter school for the purposes of taking:~~

~~9.01.2.1 — A distance learning course taught through the public school or open enrollment public charter school; and~~

~~9.01.2.2 — State tests and assessments required for the particular course~~

~~or courses taken by the student;~~

~~9.01.3 The distance learning course is offered for credit; and~~

~~9.01.4 The distance learning course is approved by the Department, or is aligned with the appropriate content standards and curriculum frameworks developed and approved by the State Board of Education or Department of Career Education.~~

~~9.02 The Commissioner may waive the requirements of 9.01.1 and 9.01.2 on an individual basis for a student who is unable to attend due to conditions that prevent the child from physically attending a public school or an open enrollment public charter school.~~

~~9.02.1 A parent or guardian, or a student if the student is over eighteen (18) years of age, may request such a waiver in writing to the Commissioner no later than thirty (30) days prior to the beginning of the semester in which the student intends to enroll in a distance learning course(s). The parent shall simultaneously send a copy of the request to the superintendent of the public school district or director of the open enrollment public charter school in which the student intends to enroll in a distance learning course(s).~~

~~9.02.2 The request must clearly set forth and document the conditions that prevent the child from physically attending the public school or open enrollment public charter school for the purposes of enrolling in a distance learning course(s).~~

~~9.03 A public school district or open enrollment public charter school that teaches or offers a distance learning course to one (1) or more home schooled or private school students who meet the conditions of 9.01 or 9.02 shall be entitled to an amount equal to one sixth (1/6) of the state foundation funding amount for each course taught to a private school student or home schooled student.~~

~~9.04 However, under no circumstances shall a public school district or open enrollment public charter school be entitled to more than the equivalent of state foundation funding for one (1) average daily membership per student regardless of the number of distance learning courses received by a particular home schooled or private school student.~~

~~9.05 A home schooled student or a private school student enrolled in a distance learning course shall not be entitled to any rights, privileges, courses, activities, or services available to a public school student or open enrollment public charter school student other than receiving appropriate credit for a completed distance learning course.~~

~~9.06 These rules shall not be construed to entitle a home schooled student or private school student to participate in, enroll in, or attend any other courses, activities, or~~

~~services provided by a public school district or an open enrollment public charter school.~~

~~9.07—No public school district or open enrollment public charter school shall establish or provide a virtual school or distance learning course to home schooled or private school students except as allowed by this section and by Ark. Code Ann. § 6-47-406.~~

~~9.08—This section shall not be construed to require a home schooled student or private school student to take any test or assessment not specifically required for completion of the course for which the student is enrolled.~~

#### ~~10.00—DISTANCE LEARNING GRANTS~~

~~10.01—The following grant standards are hereby developed to provide grants to education service cooperatives for acquiring equipment and receiving telecommunications services necessary for each school district to have distance learning availability.~~

~~10.02—The grants shall be used to assist school districts that do not have distance learning capabilities and to assist school districts in upgrading existing distance learning capabilities.~~

~~10.03—The grants shall also be used by the education service cooperatives to provide technical assistance to the school districts in implementing and maintaining distance learning as an educational tool.~~

~~10.04—Each school district shall have adequate connectivity to provide quality of service for distance learning.~~

~~10.05—Distance learning technical protocols shall be in alignment with technical standards set by the Director of the Department of Information Systems.~~

~~10.06—Education service cooperatives and school districts shall coordinate with the Department to seek to obtain the benefits of the Federal Communications Commission's E Rate discount program.~~

~~10.07—In order to assist school districts needing to receive advanced high school courses, advanced placement courses, enriched course content, or other academic courses not otherwise available in the school district, there is hereby established grant need focus areas for education cooperatives to assist school districts in obtaining and updating distance learning capabilities. The grants shall be designed to address the following needs:~~

~~10.07.1—Acquiring equipment and software necessary to implement distance learning;~~

- ~~10.07.2 — Upgrading existing equipment and software for more efficient operation of distance learning;~~
- ~~10.07.3 — Providing adequate connectivity for distance learning;~~
- ~~10.07.4 — Providing for telecommunication services for distance learning;~~
- ~~10.07.5 — Providing technical support for distance learning; and~~
- ~~10.07.6 — Providing professional development and sharing of information on resources available for the utilization of distance learning.~~
- ~~10.08 — Grant funds will only be distributed to an education cooperatives or distance learning consortium that submits a grant proposal in which the school districts participating and/or the distance learning consortium meets the following standards:~~
- ~~10.08.1 — Address one or more of the established grant need focus areas;~~
- ~~10.08.2 — Have technical protocols in alignment with standards established by the Director of the Department of Information Systems;~~
- ~~10.08.3 — Coordinate with the Department to seek the Federal Communication Commission’s E-Rate discounts; and~~
- ~~10.08.4 — Collaborate to share course content.~~
- ~~10.09 — The Department shall oversee the efficient operation and use of the system pursuant to law. In order to comply with the Department’s oversight responsibilities, the Department shall require submission and approval of grant proposals by the education cooperative or distance learning consortium prior to distribution of funds. The Division of Research and Technology of the Department shall design the proposal format and approve the proposals for funding.~~
- ~~10.10 — The grant proposals shall include the amount of funds requested by each focus area and an implementation plan supporting the purpose, need and standards contained in these rules. The superintendent and /or the education cooperative director of each participating school district shall approve the proposal submitted to the Department. The plan contained in the proposal shall be consistent with Arkansas Code and existing Arkansas Department of Education rules regarding distance learning. Proposals will be reviewed for approval as submitted.~~

## ~~11.00 — DISTANCE LEARNING CONSORTIUMS~~

~~School districts shall form collaborative efforts with other schools and/or education service cooperatives that share common educational needs in order to ensure that the state maximizes distance learning services by distributing shared course content.~~

**~~12.00 EFFECT OF DISTANCE LEARNING PROGRAMS ON TEACHERS~~**

~~A teacher that is under contract in a school district in the respective field of study that is being offered by distance learning shall not be terminated by the school district because of the availability of distance learning courses.~~

**~~13.00 OPEN ENROLLMENT VIRTUAL CHARTER SCHOOL FUNDING RESTRICTIONS~~**

~~13.01 In accordance with Section 21 of Act 1075 of 2011, no school district shall receive state funding for the 2011-2012 school year for those students who are included in the district's average daily membership for the previous school year but who are attending any open enrollment charter school that uses internet, long distance, or virtual technology as the primary method of teaching.~~

~~13.02 The provisions of this section shall be in effect only from July 1, 2011 through June 30, 2012.~~

**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS  
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE**

**DEPARTMENT/AGENCY** Arkansas Department of Education  
**DIVISION** Learning Services  
**DIVISION DIRECTOR** Stacy Smith  
**CONTACT PERSON** Cory Biggs  
**ADDRESS** Four Capitol Mall, Little Rock, AR 72201  
**PHONE NO.** (501) 682-4227 **FAX NO.** \_\_\_\_\_ **E-MAIL** cory.biggs@arkansas.gov  
**NAME OF PRESENTER AT COMMITTEE MEETING** Cory Biggs  
**PRESENTER E-MAIL** cory.biggs@arkansas.gov

**INSTRUCTIONS**

- A. Please make copies of this form for future use.**
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.**
- C. If you have a method of indexing your rules, please give the proposed citation after “Short Title of this Rule” below.**
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:**

**Donna K. Davis  
Administrative Rules Review Section  
Arkansas Legislative Council  
Bureau of Legislative Research  
One Capitol Mall, 5<sup>th</sup> Floor  
Little Rock, AR 72201**

\*\*\*\*\*

1. What is the short title of this rule? Repeal of ADE Rules Governing Distance Learning

2. What is the subject of the proposed rule? Distance Learning

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes  No   
If yes, please provide the federal rule, regulation, and/or statute citation. \_\_\_\_\_

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes  No   
If yes, what is the effective date of the emergency rule? \_\_\_\_\_

When does the emergency rule expire? \_\_\_\_\_

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes  No

5. Is this a new rule? Yes  No   
If yes, please provide a brief summary explaining the regulation. \_\_\_\_\_

Does this repeal an existing rule? Yes  No   
If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. Act 1159 of 2015 revised Arkansas laws pertaining to distance learning. In revising the rules for distance learning, ADE staff has combined the current ADE Rules Governing Distance Learning and the current ADE Rules Governing the Digital Learning Act of 2013.

Is this an amendment to an existing rule? Yes  No   
If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. Ark. Code Ann. §§ 6-11-101 et seq., 6-16-1401 et seq., 6-47-101 et seq., 25-15-201 et seq., and Act 1159 of 2015.

7. What is the purpose of this proposed rule? Why is it necessary? This rule is being repealed and replaced by pending ADE Rules Governing Distance and Digital Learning.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). <http://www.arkansased.gov/divisions/legal/rules>

9. Will a public hearing be held on this proposed rule? Yes  No   
If yes, please complete the following:

Date: March 22, 2016

Time: 1:30 p.m.

Place: ADE Auditorium

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)  
April 12, 2016

11. What is the proposed effective date of this proposed rule? (Must provide a date.)  
June 2016

12. Do you expect this rule to be controversial? Yes  No   
If yes, please explain. \_\_\_\_\_



13. Please give the names of persons, groups, or organizations that you expect to comment on these rules?  
Please provide their position (for or against) if known.

Arkansas Public School Resource Center

---

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** Arkansas Department of Education  
**DIVISION** Legal Services  
**PERSON COMPLETING THIS STATEMENT** Cory Biggs  
**TELEPHONE NO.** (501) 682-4227 **FAX NO.** \_\_\_\_\_ **EMAIL:** cory.biggs@arkansas.gov

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

**SHORT TITLE OF THIS RULE** Repeal of ADE Rules Governing Distance Learning

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**

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

**Next Fiscal Year**

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 \_\_\_\_\_

General Revenue \_\_\_\_\_

Federal Funds \_\_\_\_\_

Federal Funds \_\_\_\_\_

Cash Funds \_\_\_\_\_

Cash Funds \_\_\_\_\_

Special Revenue \_\_\_\_\_

Special Revenue \_\_\_\_\_

Other (Identify) \_\_\_\_\_

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**

\$ \_\_\_\_\_

\$ \_\_\_\_\_

N/A

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**

\$ \_\_\_\_\_

\$ \_\_\_\_\_

N/A

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.