

# **ARKANSAS DEPARTMENT OF EDUCATION RULES GOVERNING THE DIGITAL LEARNING ACT OF 2013**

**June 2014**

## **~~1.00 PURPOSE~~**

~~1.01 These rules shall be known as the Arkansas Department of Education Rules Governing the Digital Learning Act of 2013.~~

~~1.02 The purpose of these rules is to set forth the process and procedures necessary to administer the Digital Learning Act of 2013.~~

## **~~2.00 AUTHORITY~~**

~~2.01 The Arkansas State Board of Education promulgated these rules pursuant to the authority granted to it by Act 1280 of 2013 and Ark. Code Ann. §§ 6-11-105 and 25-15-201 et seq.~~

## **~~3.00 LEGISLATIVE AND REGULATORY INTENT~~**

~~3.01 It is the intent of the General Assembly and of these rules to:~~

~~3.01.1 Provide for the expansion of digital learning opportunities to all Arkansas public school students; and~~

~~3.01.2 Remove any impediments to the expansion of digital learning opportunities.~~

~~3.02 These rules do not authorize a government entity to provide directly or indirectly basic local exchange, voice, data, broadband, video, or wireless telecommunication service except as authorized under Ark. Code Ann. § 23-17-409(b).~~

## **~~4.00 DEFINITIONS~~**

~~For the purposes of these rules only:~~

~~4.01 “Blended Learning” is education in which instruction and content are delivered through supervised instruction in a classroom and online delivery of instruction with some element of student control over time, place, path, or pace.~~

~~4.02 “Digital Learning” means a digital technology or internet-based educational delivery model that does not rely exclusively on compressed interactive video (CIV). Digital learning includes online and blended learning.~~

~~4.03 “Digital Learning Provider” is an agency or entity approved by the Arkansas Department of Education pursuant to these rules that provides digital learning courses to public schools.~~

~~4.04 “Highly Qualified Teacher” means a teacher who holds at least a Bachelor’s Degree and has demonstrated subject area competence in each of the core academic subjects in which the teacher teaches. A highly qualified teacher that delivers digital learning courses under these rules is not required to be licensed as a teacher or administrator by the State Board of Education.~~

*~~Note: Federal laws or regulations may require teachers in certain subject areas to hold a teaching license (e.g., special education teachers who teach core academic subjects).~~*

~~4.05 “Online Learning” is education in which instruction and content are delivered primarily over the Internet. The term does not include print-based correspondence education, broadcast television or radio, videocassettes, compact disks and stand-alone educational software programs that do not have a significant Internet-based instructional component.~~

## **~~5.00 DIGITAL LEARNING APPROVED PROVIDER LIST~~**

~~5.01 Digital learning services may be procured from both in-state and out-of-state digital learning providers.~~

~~5.02 The Arkansas Department of Education shall annually:~~

~~5.02.1 Publish a list of approved digital learning providers that offer digital learning services; and~~

~~5.02.2 Provide a copy of the list of approved digital learning providers to the House Committee on Education and the Senate Committee on Education no later than June 1 each year.~~

## **~~6.00 DIGITAL LEARNING ENVIRONMENT~~**

~~6.01 A digital learning environment shall be composed of:~~

~~6.01.1 Access to quality digital learning content and online blended learning courses;~~

~~6.01.2 Tailored digital content designed to meet the needs of each student;~~

~~6.01.3 Digital learning content that meets or exceeds the curriculum standards and requirements adopted by the State Board of Education that is capable~~

~~of being assessed and measured through standardized tests or local assessments; and~~

~~6.01.4 Infrastructure that is sufficient to handle and facilitate a quality digital learning environment.~~

## **~~7.00 DIGITAL LEARNING PROVIDERS~~**

~~7.01 To become an approved digital learning provider a digital learning provider shall submit proof that the provider:~~

~~7.01.1 Is nonsectarian and nondiscriminatory in its programs, employment practices, and operations;~~

~~7.01.2 Demonstrates or partners with an organization that demonstrates successful experience in furnishing digital learning courses to public school students as demonstrated by student growth in each subject area and grade level for which it proposes to provide digital learning courses;~~

~~7.01.3 Provides digital learning services that meet or exceed the minimum curriculum standards and requirements established by the State Board of Education and ensures instructional and curricular quality through a curriculum and accountability plan that addresses every subject area and grade level for which it agrees to provide digital learning courses; and~~

~~7.01.4 Utilizes highly qualified teachers to deliver digital learning courses to public school students. A highly qualified teacher that delivers digital learning courses under these rules is not required to be licensed as a teacher or administrator by the State Board of Education.~~

~~7.02 The Arkansas Department of Education or State Board of Education shall not require as a condition of approval of a digital learning provider that the digital learning provider limit the delivery of digital learning courses to public schools that require physical attendance at the public school to successfully complete the credit for which the digital learning course is provided.~~

~~7.03 To become an approved digital learning provider in Arkansas, a prospective digital learning provider shall complete the application found at Attachment 1 to these rules and provide the completed application to:~~

~~ATTN: Digital Learning Provider Applications  
Arkansas Department of Education  
Division of Learning Services  
Four Capitol Mall  
Little Rock, AR 72201~~

~~The Arkansas Department of Education is authorized to create an electronic version of the application found at Attachment 1.~~

~~7.04 Public school districts and public charter schools that provide digital learning courses to their own students without the assistance of an external digital learning provider are not required to seek approval as a digital learning provider pursuant to these rules.~~

~~7.05 Public school districts and public charter schools that provide digital learning courses to students other than their own students are required to seek approval as digital learning providers pursuant to these rules.~~

## **~~8.00 PILOT PROGRAM DIGITAL LEARNING COURSES~~**

~~8.01 Beginning in the 2013-2014 school year, all public school districts and public charter schools participating in a pilot program shall provide at least one (1) digital learning course to their students as either a primary or supplementary method of instruction. Public school districts and public charter schools that wish to participate in the pilot program shall provide a notice of intent to participate in the pilot program to the Arkansas Department of Education at the following address:~~

~~ATTN: Digital Learning Pilot Program Notification  
Arkansas Department of Education  
Division of Learning Services  
Four Capitol Mall  
Little Rock, AR 72201~~

~~8.02 Beginning in the 2014-2015 school year, all public school districts and public charter schools shall provide at least one (1) digital learning course to their students as either a primary or supplementary method of instruction.~~

~~8.03 All digital learning courses provided by public school districts and public charter schools shall:~~

~~8.03.1 Be of high quality;~~

~~8.03.2 Meet or exceed the curriculum standards and requirements established by the State Board of Education;~~

~~8.03.3 Be made available in a blended learning, online-based, or other technology-based format tailored to meet the needs of each participating student.~~

~~8.04 Digital learning courses shall be capable of being assessed and measured through standardized tests or local assessments.~~

~~8.05 Beginning with the entering ninth grade class of the 2014-2015 school year, each high school student shall be required to take at least one (1) digital learning course for credit to graduate.~~

~~8.06 The State Board of Education shall not limit the number of digital learning courses for which a student may receive credit through a public school or public charter school and shall ensure that digital learning courses may be used as both primary and secondary methods of instruction.~~

~~8.07 A public school district or public charter school that offers a digital learning course through an approved digital learning provider shall ensure that each digital learning course offered at the public school district or public charter school has been approved by the Arkansas Department of Education.~~

~~8.07.1 It is not necessary for a public school district or public charter school to seek approval from the Arkansas Department of Education for courses that have previously been approved by the Arkansas Department of Education.~~

~~8.07.2 For courses not previously approved by the Arkansas Department of Education, a public school district or public charter school that offers a digital learning course through an approved digital learning provider shall obtain approval for the course from the Arkansas Department of Education prior to offering the course to students. A public school district or public charter school may seek course approval by contacting the following office:~~

ATTN: Digital Learning Course Approvals  
Arkansas Department of Education  
Division of Learning Services  
Four Capitol Mall  
Little Rock, AR 72201

**ATTACHMENT 1**

**ARKANSAS  
DEPARTMENT  
OF EDUCATION**

**DIGITAL LEARNING PROVIDER APPLICATION**

Date of Application: \_\_\_\_\_

Name of Provider: \_\_\_\_\_

Provider Point of Contact: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_

E mail: \_\_\_\_\_

Website Address (If Applicable): \_\_\_\_\_

Is the applicant/provider nonsectarian and nondiscriminatory in its programs, employment practices and operations? Yes: \_\_\_\_\_ No: \_\_\_\_\_

Explain: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Subject areas for which the applicant/provider intends to offer digital learning courses:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Grade levels for which the applicant/provider intends to offer digital learning courses:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Will the applicant/provider partner with any organization in furnishing digital learning courses to public school students? Yes: \_\_\_\_\_ No: \_\_\_\_\_

If so, please provide the following:

Name of Partnering Organization: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_

E mail: \_\_\_\_\_

Website Address (If Applicable): \_\_\_\_\_

A prospective digital learning provider must demonstrate or partner with an organization that demonstrates successful experience in furnishing digital learning courses to public school students as demonstrated by student growth in each subject area and grade level for which it proposes to provide digital learning courses. Please explain how the applicant/provider meets this requirement. Attach supporting documentation as necessary.

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A prospective digital learning provider must meet or exceed the minimum curriculum standards and requirements established by the State Board of Education and ensure instructional and curricular quality through a curriculum and accountability plan that addresses every subject area and grade level for which it agrees to provide digital learning courses. Please explain how the applicant/provider meets this requirement. Attach supporting documentation as necessary.

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A prospective digital learning provider must use highly qualified teachers to deliver digital learning courses to public school students. Please explain how the applicant/provider meets this requirement. Attach supporting documentation as necessary.

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Digital learning courses shall be capable of being assessed and measured through standardized tests or local assessments. Please explain how the applicant/provider meets this requirement. Attach supporting documentation as necessary.

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### **ACKNOWLEDGMENT**

I certify that the foregoing information is true, accurate and complete. I understand that the requirements for being an approved digital learning provider in Arkansas are governed by Act 1280 of 2013 and the Arkansas Department of Education Rules Governing the Digital Learning Act of 2013. I further understand that failure to comply with the requirements of Act 1280 of 2013 and the Arkansas Department of Education Rules Governing the Digital Learning Act of 2013 could result in denial of this application or withdrawal of approval status.

\_\_\_\_\_  
Name of Applicant

\_\_\_\_\_  
Date

On Behalf Of:

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Submit Completed Application To:

ATTN: Digital Learning Provider Applications  
Arkansas Department of Education  
Division of Learning Services  
Four Capitol Mall  
Little Rock, AR 72201

**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

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1. What is the short title of this rule? Repeal of ADE Rules Governing the Digital Learning Act of 2013
2. What is the subject of the proposed rule? Digital 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

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## 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 the Digital Learning Act of 2013

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 \_\_\_\_\_  
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**

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

N/A

**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**

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

N/A

**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.