

**SUMMARY FOR DEPARTMENT OF EDUCATION  
PROPOSED AMENDMENTS TO RULES GOVERNING HOW TO MEET THE NEEDS OF  
CHILDREN WITH DYSLEXIA**

Amendments to these Rules are necessary as a result of Act 1038 of 2017. They also contain non-substantive edits.

Section 5.02.1 is added to clarify how the Level II dyslexia screening in Rule 5.02 shall be completed, per Act 1039 of 2017.

Sections 8.02, 8.02.1, 8.02.2, and 8.02.3 are added to incorporate new school district reporting requirements mandated by Act 1039 of 2017.

Sections 14.00, 14.01, and 14.02 are added to incorporate new Arkansas Department of Education enforcement powers granted by Act 1039 of 2017.

No other sections are changed.

**ARKANSAS DEPARTMENT OF EDUCATION RULES GOVERNING  
HOW TO MEET THE NEEDS OF CHILDREN WITH DYSLEXIA  
~~OCTOBER 2016~~ JULY 2018**

**1.00 PURPOSE**

- 1.01 These rules shall be known as the Arkansas Department of Education Rules Governing How to Meet the Needs of Children with Dyslexia.
- 1.02 The purpose of these rules is to establish guidelines for early screening, intervention and services to meet the educational needs of students with dyslexia.
- 1.03 Further clarification, guidance, and instruction regarding the applicable law and these rules is provided in the Arkansas Dyslexia Resource Guide, which can be accessed through the ADE's website.

**2.00 AUTHORITY**

- 2.01 These rules are enacted pursuant to the Arkansas State Board of Education's authority under Ark. Code Ann. §§ 6-11-105, 6-41-601 through 6-41-610, and 25-15-201 *et seq.*
- 2.02 NOTE: These rules set forth the procedures outlined in Ark. Code Ann. §§ 6-41-601 through 6-41-610 regarding screening, evaluation, and services for students with dyslexia or characteristics of dyslexia who may or may not otherwise qualify for special education services under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§1400 *et seq.* Students may display additional factors that complicate their dyslexia and may require more support than what may be provided for in these rules. At any time during the administration of the procedures set forth in these rules, students may be referred for evaluation for special education services in accordance with IDEA. While these rules may use similar terms as set forth in IDEA, no provision of these rules is intended to supplant, or in any way conflict with, IDEA. If a student with dyslexia is referred for special education services, public schools shall follow the requirements of IDEA. Also, school districts must continue to follow all requirements and meet all obligations to its students under § 504 of the Rehabilitation Act, as amended, 29 U.S.C. § 794.

**3.00 DEFINITIONS**

- 3.01 "Dyslexia" means a specific learning disability that is:
  - 3.01.1 Neurological in origin;

- 3.01.2 Characterized by difficulties with accurate and fluent word recognition and poor spelling and decoding abilities that typically result from a deficit in the phonological component of language; and
- 3.01.3 Often unexpected in relation to other cognitive abilities.
- 3.02 “Dyslexia interventionist” means a school district or public school employee trained in a dyslexia program, such as a:
  - 3.02.1 Dyslexia therapist;
  - 3.02.2 Dyslexia specialist;
  - 3.02.3 Reading interventionist;
  - 3.02.4 Certified teacher; or
  - 3.02.5 Tutor or paraprofessional working under the supervision of a certified teacher.
- 3.03 “Dyslexia program” means explicit, direct instruction that is:
  - 3.03.1 Systematic, sequential, and cumulative and follows a logical plan of presenting the alphabetic principle that targets the specific needs of the student without presuming prior skills or knowledge of the student;
  - 3.03.2 Systematic, multisensory, and research-based;
  - 3.03.3 Offered in a small group setting to teach students the components of reading instruction, including without limitation:
    - 3.03.3.1 Phonemic awareness to enable a student to detect, segment, blend, and manipulate sounds in spoken language;
    - 3.03.3.2 Graphophonemic knowledge for teaching the letter-sound plan of English;
    - 3.03.3.3 The structure of the English language that includes morphology, semantics, syntax, and pragmatics;

- 3.03.3.4 Linguistic instruction directed toward proficiency and fluency with the patterns of language so that words and sentences are carriers of meaning; and
- 3.03.3.5 Strategies that students use for decoding, encoding, word recognition, fluency, and comprehension.
- 3.03.4 Delivered with fidelity. “Fidelity” means the intervention is done as the author of the program intended.
- 3.04 “Dyslexia specialist” means:
  - 3.04.1 A professional at each education service cooperative or school district who has expertise and is working towards an endorsement or certification in providing training for:
    - 3.04.1.1 Phonological and phonemic awareness;
    - 3.04.1.2 Sound and symbol relationships;
    - 3.04.1.3 Alphabet knowledge;
    - 3.04.1.4 Decoding skills;
    - 3.04.1.5 Rapid naming skills; and
    - 3.04.1.6 Encoding skills.
  - 3.04.2 A dyslexia specialist shall be fluent in the Response to Intervention (RTI) process and provide training in administering screenings, analyzing and interpreting screening data, and determining appropriate interventions that are systematic, multisensory, and evidence-based.
- 3.05 “Dyslexia therapist” means a professional who has completed training and obtained certification in dyslexia therapy from a dyslexia therapy training program defined by the Arkansas Department of Education.
- 3.06 “Dyslexia therapy” means an appropriate specialized reading instructional program specifically designed for use in a dyslexia program that is delivered by a dyslexia interventionist.
- 3.07 “Response to Intervention (RTI)” is the practice of:
  - 3.07.1 Screening students to identify those needing extra support;

- 3.07.2 Providing high-quality instruction and appropriate interventions matched to student needs;
- 3.07.3 Closely monitoring progress to assess both the learning rate and the level of performance of individual students; and
- 3.07.4 Basing instructional decisions about the intensity and duration of interventions on individual student response to intervention.

#### **4.00 REQUIRED SCREENING**

- 4.01 A school district shall screen:
  - 4.01.1 Each student in kindergarten, grade one, and grade two (K-2);
  - 4.01.2 A student in kindergarten, grade one, or grade two (K-2) who transfers to a new school and has not been screened during the same school year;
  - 4.01.3 A student in grade three (3) or higher who has difficulty, as noted by a classroom teacher, in any skills listed in 4.02 of these rules;
  - 4.01.4 A student from another state who enrolls for the first time in Arkansas in kindergarten through grade two (K-2) unless the student presents documentation that the student:
    - 4.01.4.1 Had the screening or a similar screening in the current school year; or
    - 4.01.4.2 Is exempt from screening as set forth in Section 4.05 of these Rules.
- 4.02 The screening of students shall be performed with fidelity and include without limitation:
  - 4.02.1 Phonological and phonemic awareness;
  - 4.02.2 Sound symbol recognition;
  - 4.02.3 Alphabet knowledge;
  - 4.02.4 Decoding skills;

4.02.5 Rapid naming skills; and

4.02.6 Encoding skills

- 4.03 Every school district shall ensure that students are screened using the Dynamic Indicators of Basic Early Literacy Skills (DIBELS) or an equivalent screener for phonological and phonemic awareness, sound symbol recognition, alphabet knowledge, and decoding skills, and by using an appropriate screener for rapid naming skills and encoding skills.

NOTE: DIBELS may indicate characteristics of a reading deficiency, which may include characteristics of dyslexia. DIBELS alone may be insufficient to determine the existence of dyslexia. Additional screening assessments will need to be administered to measure components that are not measured by DIBELS or the equivalent screener. Refer to the Arkansas Dyslexia Resource Guide for a list of screening instruments.

- 4.04 If the screener(s) used under section 4.03 shows that a student is at risk, or at some risk, then a Level I dyslexia screener shall be administered. The Level I dyslexia screening of a student shall be performed with fidelity and include the components listed under section 4.02.
- 4.05 The following students shall be exempt from dyslexia screening:
- 4.04.1 Students with an existing diagnosis of dyslexia for whom the school district is providing interventions;
  - 4.04.2 Students with a sensory impairment that prevents screening for dyslexia.

## **5.00 INTERVENTION AND SERVICES**

- 5.01 If the initial, Level I, or Level II dyslexia screening indicates that a student exhibits characteristics of dyslexia, the Response to Intervention (RTI) process shall be used to address the needs of the student.
- 5.02 If the Level II dyslexia screening conducted by the school district indicates that a student exhibits characteristics of dyslexia, the student shall be provided intervention services.

5.02.1 The Level II dyslexia screening shall be completed consistent with the Arkansas Dyslexia Resource Guide.

- 5.03 If it is determined the student has functional difficulties in the academic environment due to characteristics of dyslexia, the necessary accommodations or equipment for the student shall be provided under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and Title II of the Americans with Disabilities Act, 42 U.S.C. §§ 12131-12165, as they existed on February 1, 2013, if qualified under the applicable federal law.

## **6.00 INDEPENDENT, COMPREHENSIVE DYSLEXIA EVALUATION**

- 6.01 If a student's performance on an initial screener, Level I screening, or Level II dyslexia screening under Section 4.00 of these rules indicate a need for dyslexia intervention services, the student's parent or legal guardian shall be:
- 6.01.1 Notified of the results of the dyslexia evaluation;
  - 6.01.2 Provided with information and resource materials including without limitation:
    - 6.01.2.1 The characteristics of dyslexia;
    - 6.01.2.2 Appropriate classroom interventions and accommodations for students with dyslexia; and
    - 6.01.2.3 The right of the parent or legal guardian to have the student receive an independent, comprehensive dyslexia evaluation by a:
      - 6.01.2.3.1 Licensed psychological examiner;
      - 6.01.2.3.2 School psychology specialist;
      - 6.01.2.3.3 Licensed speech-language pathologist;
      - 6.01.2.3.4 Certified dyslexia testing specialist; or
      - 6.01.2.3.5 Dyslexia therapist.
- 6.02 If a parent or legal guardian chooses to have an independent comprehensive dyslexia evaluation for the student, the parent or legal guardian shall:

- 6.02.1 Select an individual qualified under section 6.01.2.3 to perform the comprehensive dyslexia evaluation; and
- 6.02.2 Cover the cost of the comprehensive dyslexia evaluation.
- 6.03 A school district shall consider the diagnosis from the independent comprehensive dyslexia evaluation and provide the student with interventions determined to be appropriate by the school district from a district dyslexia interventionist. If the school district does not provide intervention based upon the diagnosis, it must notify the student's parent or guardian of its reasoning.

NOTE: Whether an individual is qualified to conduct an evaluation or provide a diagnosis is dependent upon their licensure.

## **7.00 INSTRUCTIONAL APPROACHES**

- 7.01 Dyslexia intervention for a student whose dyslexia Level I or Level II screening under Section 5.02 of these rules indicates the need for dyslexia intervention services may include the following instructional approaches, but shall include all services deemed appropriate by the district:
  - 7.01.1 Explicit, direct instruction that is systematic, sequential, and cumulative and follows a logical plan of presenting the alphabetic principle that targets the specific needs of the student without presuming prior skills or knowledge of the student;
  - 7.01.2 Individualized instruction to meet the specific needs of the student in a small group setting that uses intensive, highly concentrated instruction methods and materials that maximize student engagement;
  - 7.01.3 Meaning-based instruction directed at purposeful reading and writing, with an emphasis on comprehension and composition; and
  - 7.01.4 Multisensory instruction that incorporates the simultaneous use of two (2) or more sensory pathways during teacher presentations and student practice.
- 7.02 Until there are a sufficient number of graduates from a dyslexia therapy program established at the university level in Arkansas or from a dyslexia therapy program established at the university level in another state that is approved by the Arkansas Department of Education, the department shall



allow dyslexia therapy to be provided by individuals who have received training and certification from a program approved by the department.

## **8.00 REPORTING BY SCHOOL DISTRICTS**

8.01 The superintendent of a school district shall annually report the results of the school district screening required under Section 4.00 of these rules. Additional information concerning the manner of submission of the report may be found in the Arkansas Dyslexia Resource Guide.

8.02 Before July 15, a school district shall report on the website of the school district, or in writing to the parents of each student in the school district the following information:

8.02.1 The dyslexia intervention programs used during the previous school year that were specifically responsive to assisting students with dyslexia;

8.02.2 The number of students during the previous school year who received dyslexia intervention under Ark. Code Ann. § 6-41-602 et seq. and these Rules; and

8.02.3 The total number of students identified with dyslexia during the previous school year.

8.02.3.1 For purposes of Section 8.02.3, “identified with dyslexia” means students with a formal dyslexia diagnosis and students exhibiting the characteristics of dyslexia through a school-based or outside evaluation.

## **9.00 DYSLEXIA SPECIALIST**

9.01 No later than the 2015 fiscal year, the Department of Education shall employ at least one (1) dyslexia specialist with a minimum of three (3) years of field experience in screening, identifying, and treating dyslexia and related disorders to provide technical assistance for dyslexia and related disorders to school districts across the state.

9.01.1 The dyslexia specialist shall:

9.01.1.1 Be highly trained in dyslexia and related disorders, including best-practice interventions and treatment models for dyslexia;

9.01.1.2 Be responsible for the accountability of screening results and the implementation of professional awareness required by Section 11.00 of these rules and

9.01.1.3 Serve as the primary source of information and support for school districts in addressing the needs of students with dyslexia and related disorders.

9.02 The Department of Education shall ensure at least one (1) staff member at each education service cooperative is trained as a dyslexia specialist to provide necessary information and support to school districts.

## **10.0 DYSLEXIA INTERVENTIONISTS**

10.01 No later than the 2015-2016 academic year, a school district shall have at least one individual to serve as a dyslexia interventionist.

## **11.00 PROFESSIONAL AWARENESS**

11.01 The Department of Education shall ensure that each teacher receives professional awareness on the following:

11.01.1 The characteristics of dyslexia; and

11.01.2 The evidence-based interventions and accommodations for dyslexia.

11.02 Professional awareness may be provided:

11.02.1 Online through Arkansas IDEAS;

11.02.2 At an education service cooperative; or

11.02.3 At another venue approved by the Department of Education.

## **12.00 EDUCATION IN TEACHER PREPARATION PROGRAMS**

No later than the 2015-2016 school year, the Department of Education shall collaborate with the Department of Higher Education to ensure that all teacher education programs offered at state-supported institutions of higher education provide dyslexia professional awareness of the:

12.01 Characteristics of dyslexia; and

12.02 Evidence-based interventions and accommodations for dyslexia.

### **13.00 DYSLEXIA RESOURCE GUIDE**

13.01 The Department of Education shall maintain a committee for the purpose of developing and updating the Dyslexia Resource Guide

13.02 The committee shall be appointed by the Commissioner of Education and include one (1) representative who has experience working in the field of dyslexia intervention from each of the following organizations:

13.02.1 The Arkansas Association of Education Administrators;

13.02.2 The Arkansas Department of Education, Division of Learning Services;

13.02.3 The Arkansas Department of Higher Education;

13.02.4 The Arkansas Education Association;

13.02.5 The Arkansas School Boards Association;

13.02.6 An Education Service Cooperative Administrator; and

13.02.7 The Arkansas School Psychology Association.

13.02.7.1 The committee member from the Arkansas School Psychology Association must have at least three (3) years of experience in testing for dyslexia.

13.03 The committee also shall include three (3) professionals who have worked in public schools and who are knowledgeable in and have expertise in dyslexia screening and interventions.

### **14.00 ENFORCEMENT BY THE ARKANSAS DEPARTMENT OF EDUCATION**

14.01 A school district that fails to comply with Ark. Code Ann. § 6-41-602 et seq. and these Rules shall be in violation of the Standards for Accreditation of Arkansas Public Schools and School Districts and may be placed in probationary status.

14.02 A school district placed on probationary status under Rule 14.01 shall report the reason for being placed on probationary status on the website of the school district and by written notification to the parents of each student in the school district.

MARK-UP

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

DEPARTMENT/AGENCY Arkansas Department of Education  
DIVISION Learning Services  
DIVISION DIRECTOR Stacy Smith  
CONTACT PERSON Mary Claire Hyatt, Staff Attorney  
ADDRESS Four Capitol Mall, Little Rock, AR 72201  
PHONE NO. (501) 683-0960 FAX NO. None E-MAIL Maryclaire.hyatt@arkansas.gov  
NAME OF PRESENTER AT COMMITTEE MEETING Mary Claire Hyatt  
PRESENTER E-MAIL MaryClaire.Hyatt@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? Rules Governing How to Meet the Needs of Children with Dyslexia

2. What is the subject of the proposed rule? Dyslexia screening, Reporting by the school districts, Enforcement

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. N/A

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? N/A

When does the emergency rule expire? N/A

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. \_\_\_\_\_

- 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."** See attached summary.

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. Ark. Code Ann. §§ 6-11-105, 6-41-603, 6-41-606, 6-41-611 and 25-15-201 et seq., and Act 1039 of 2017.

7. What is the purpose of this proposed rule? Why is it necessary? To incorporate provisions of Act 1039 of 2017.

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 19, 2018  
Time: 11:00am  
Arkansas Department of Education  
Four Capitol Mall, Room 201A  
Place: Little Rock, AR 72201

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)  
Friday, April 13, 2018

11. What is the proposed effective date of this proposed rule? (Must provide a date.)  
July 1, 2018

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. Attached.

13. Please provide proof of filing the rule with the Secretary of State and the Arkansas State Library as required pursuant to Ark. Code Ann. § 25-15-204(e). Attached.

14. 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. The rules will be of interest to parents, community organizations, education service cooperatives, school administrators, and school district administrators.

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** Arkansas Department of Education

**DIVISION** Learning Services

**PERSON COMPLETING THIS STATEMENT** Mary Claire Hyatt, Staff Attorney

**TELEPHONE** 501-683-0960      **FAX** None      **EMAIL:** Maryclaire.hyatt@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** Rules Governing How to Meet the Needs of Children with Dyslexia

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;  
N/A

(b) The reason for adoption of the more costly rule;  
N/A

(c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;  
N/A

(d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.  
N/A

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 N/A  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_  
  
Total N/A

**Next Fiscal Year**

General Revenue N/A  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_  
  
Total N/A



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

**Current Fiscal Year**

General Revenue  N/A   
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_  
  
Total  N/A

**Next Fiscal Year**

General Revenue  N/A   
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_  
  
Total  N/A

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**

\$  Zero

**Next Fiscal Year**

\$  Zero

---

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**

\$ \_\_\_\_\_  
Zero

**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.