

ARKANSAS DEPARTMENT OF EDUCATION

RULES GOVERNING DISTANCE AND DIGITAL LEARNING

1.00 Purpose

- 1.01 The purpose of these Rules is to set reasonable guidelines for the coordination and implementation of learning where the teacher and student are separated by place and to provide guidance for the implementation of digital learning environments that offer student-centered, personalized, and flexible learning options.
- 1.02 These Rules are intended to ensure that distance learning is available to every Arkansas student who wishes to participate, to improve content and course offerings available to students—including Advanced Placement courses or other academic courses not otherwise available—and encourage innovation in education, and to prepare students for participation in the information age economy.
- 1.03 In order to ensure proper implementation, the Arkansas Department of Education shall work with other state agencies involved in distance and digital learning to implement distance and digital learning throughout the state.

2.00 Authority

- 2.01 The Arkansas State Board of Education’s authority for promulgating these Rules is pursuant to Ark. Code Ann. §§ 6-11-105, 6-16-1401 *et seq.*, 6-47-101 *et seq.*, and 25-15-201 *et seq.*, and Act 1159 of 2015.

3.00 Definitions

- 3.01 “Adult Facilitator” is the person responsible for supervising and assisting the students at a brick-and-mortar location. The adult facilitator must be an adult approved by the school district or open-enrollment public charter school.
- 3.02 “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.
- 3.03 “Department” is the Arkansas Department of Education.
- 3.04 “Digital Learning” is a digital technology or internet-based educational delivery model that does not rely exclusively on compressed interactive video. Digital learning may be a type of distance learning.

- 3.05 “Digital Learning Provider” is an agency or entity approved by the Arkansas Department of Education pursuant to these rules that provide digital learning courses to public schools.
- 3.06 “Distance Learning” is any type of educational activity in which the participants are at a distance from each other, separated in space. Distance learning may or may not utilize digital learning.
- 3.07 “Infrastructure” is an interlinked system of wires, cables, fiber optics, or other wireline or wireless communications media.
- 3.08 “Public School Student Accessing Courses at a Distance” is a student who attends all classes virtually through a public school district or open-enrollment charter school
- 3.09 “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.
- 3.10 “Teacher of Record” 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 Arkansas Department of Education or the Arkansas Department of Career Education;
 - 3.10.2 Providing direct instruction as necessary;
 - 3.10.3 Supervising the administration of student assessments; and
 - 3.10.4 Assigning a grade or completion status for the course.
- 3.11 “Technology” is any equipment for instructional purposes that is electronic in nature including, but not limited to, computer hardware, computer software, and internet connectivity.

4.00 Distance Learning Coordinating Council

- 4.01 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.

4.02 The Distance Learning Coordinating Council consists of the following members:

4.02.1 One (1) member who is an employee of the Department of Education appointed by the Commissioner;

4.02.2 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;

4.02.3 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;

4.02.4 One (1) member who is an employee of the Office of Information Technology appointed by the Office of Information Technology or its successor agency;

4.02.5 One (1) member who is an employee of the Division of Science and Technology of the Arkansas Economic Development Commission appointed by the Executive Director of the Arkansas Economic Development Commission;

4.02.6 One (1) member who is an employee of the Department of Career Education appointed by the Director of the Department of Career Education;

4.02.7 One (1) member who is employed by the Department of Higher Education appointed by the Director of the Department of Higher Education;

4.02.8 One (1) member who is an employee of the Arkansas State Library appointed by the State Librarian;

4.02.9 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 of Education;

4.02.10 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;

4.02.11 Two (2) members who are employed by telecommunications companies that are members of the Arkansas Telecommunications Association and appointed as follows:

4.02.11.1 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

4.02.11.2 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

4.02.12 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.

4.03 Members shall serve three-year terms and are eligible for reappointment.

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

4.03.2 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.

4.03.3 The Distance Learning Coordinating Council shall meet at least quarterly.

4.03.4 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.

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

4.04 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:

4.04.1 Distance learning standards and rules;

- 4.04.2 Online distance learning curriculum;
- 4.04.3 Supplemental distance learning course material;
- 4.04.4 Coordination of distance learning services;
- 4.04.5 Methods for fostering collaborative processes by which distance learning content can be shared more effectively with and delivered to public schools;
- 4.04.6 Strategies for reducing the occurrences of isolated distance learning activities;
- 4.04.7 Options for spreading distance learning costs and increasing the value of shared distance learning services; and
- 4.04.8 Improving utilization of distance learning resources.

5.00 Arkansas Distance Learning Development Program

- 5.01 The Arkansas Distance Learning Development Program shall be conducted by the Department of Education and administered through the Commissioner.
- 5.02 The Arkansas Distance Learning Development Program shall have four (4) focus areas:
 - 5.02.1 To help alleviate the increasing shortage of available qualified teachers;
 - 5.02.2 To provide additional course-scheduling opportunities for students;
 - 5.02.3 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
 - 5.02.4 To develop and make available online professional development and instructional resources for all teachers and administrators.
- 5.03 The funding necessary to carry out the provisions of Section 5.00 may be derived from donations, grants or legislative appropriation.
 - 5.03.1 The Commissioner may solicit and receive donations and grants for the purpose of administering the Arkansas Distance Learning Development Program.
 - 5.03.2 All donations, grants, and appropriations received shall be accounted for by the Department.

5.03.3 Fund balances may be carried over from one year to the next to continue the Arkansas Distance Learning Development Program.

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

5.05 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 Development Program.

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

6.00 Distance Learning Grants

6.01 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.

6.02 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.

6.03 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.

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

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

6.06 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.

7.00 Requirements for the Administration of Distance Learning in Elementary and Secondary Schools

Note: 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.

7.01 Courses offered through distance learning shall include, without limitation:

7.01.1 College preparatory courses, including, without limitation, calculus, physics, Arkansas history, foreign languages, and computer science; and

7.01.2 Technological courses, including, without limitation, advanced math and science courses, advanced computer skills courses, and advanced courses in the arts.

7.02 Any distance learning course must be approved by the Department of Education 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:

7.02.1 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

7.02.2 The course is not offered for credit.

7.03 All distance learning courses shall have an appropriately licensed or approved primary instructor.

7.04 Each receiving site shall have an adult facilitator to:

7.04.1 Supervise any instructional activity where students meet as a group; and

7.04.2 Administer all student achievement assessments used to determine a student's final grade.

7.05 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.

7.05.1 Documentation of student achievement assessments shall be maintained and shall be available for review 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 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. This includes any incorporation of digital resources that does not provide the student some element of control over time, place, path, and/or pace in the delivery.
- 7.07 Distance learning courses shall be considered large group instruction courses for the purposes of the Arkansas Standards for Accreditation of Arkansas Public Schools and School Districts.
- 7.08 Any public school district or open-enrollment public charter school offering distance learning courses shall abide by the policies adopted by the distance learning provider or supplier of courses in such a way that students taking distance learning courses are able to participate in the courses without falling outside of established attendance policies.
- 7.09 Attendance in distance learning courses shall be determined by the online attendance and time the student is working on the course as monitored by the school district or open-enrollment public charter school to ensure the student progresses toward credit attainment for the course.

8.00 **Participation in Distance Learning Courses**

- 8.01 Except as provided in Section 8.02 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 if:
- 8.01.1 The student agrees to physically attend the public school or open-enrollment public charter school for the purposes of taking state tests and assessments required for the particular course or courses taken by the student;
- 8.01.1.1 Section 8.01.1 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.
- 8.01.2 The distance learning course is offered for credit; and
- 8.01.3 The distance learning course is approved by the Department of Education, 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.
- 8.02 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 8.01 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.

8.03 A public school district or open-enrollment public charter school shall not 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.

8.04 A student may take all courses virtually through a public school district or open-enrollment public charter school.

8.04.1 Once a student who formerly was home schooled or attended a private school accesses all courses virtually through a public school district or open-enrollment public charter school, the student is a public school student accessing courses at a distance.

9.00 Digital Learning Environment

9.01 A digital learning environment shall be composed of:

9.01.1 Access to quality digital learning content and online blended learning courses;

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

9.01.2 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

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

10.00 Digital Learning Providers

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

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

10.01.2 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;

10.01.3 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

10.01.4 Utilizes highly qualified teachers to deliver digital learning courses to public school students.

10.01.4.1 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.

10.02 The 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.

10.03 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.

10.04 Public school districts and open-enrollment 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.

10.05 Public school districts and open-enrollment 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.

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

10.07 The Arkansas Department of Education shall annually:

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

10.07.2 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 of each year.

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 ADE Rules Governing Distance and Digital 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 _____
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

\$ _____

\$ _____

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.