

# ARKANSAS REGISTER

## Transmittal Sheet

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



Secretary of State

**John Thurston**

500 Woodlane, Suite 026

Little Rock, Arkansas 72201-1094

(501) 682-5070

[www.sos.arkansas.gov](http://www.sos.arkansas.gov)



**For Office**

**Use Only:**

Effective Date \_\_\_\_\_ Code Number \_\_\_\_\_

Name of Agency \_\_\_\_\_

Department \_\_\_\_\_

Contact \_\_\_\_\_ E-mail \_\_\_\_\_ Phone \_\_\_\_\_

Statutory Authority for Promulgating Rules \_\_\_\_\_

**Rule Title:** \_\_\_\_\_

**Intended Effective Date**

(Check One)

**Date**

Emergency (ACA 25-15-204) Legal Notice Published ..... \_\_\_\_\_

10 Days After Filing (ACA 25-15-204) Final Date for Public Comment ..... \_\_\_\_\_

Other \_\_\_\_\_ Reviewed by Legislative Council ..... \_\_\_\_\_  
(Must be more than 10 days after filing date.)

Adopted by State Agency ..... \_\_\_\_\_

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

Contact Person

E-mail Address

Date

### CERTIFICATION OF AUTHORIZED OFFICER

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

Signature

Phone Number

E-mail Address

Title

Date

**ARKANSAS DIVISION OF ELEMENTARY AND SECONDARY EDUCATION RULES  
GOVERNING THE RIGHT TO READ ACT  
Effective Date: March 6, 2020**

**1.00 REGULATORY AUTHORITY**

- 1.01 The State Board of Education enacted these rules pursuant to its authority as set forth in Ark. Code Ann. §§ 6-11-105, 6-17-402, 6-17-429, and 25-15-201 et seq.

**2.00 DEFINITIONS**

- 2.01 "Division" means the Division of Elementary and Secondary Education of the Arkansas Department of Education.
- 2.02 "Prescribed pathway" means approved professional development that meets the criteria established by the Division.
- 2.03 "Public school district" includes traditional public schools, open-enrollment charter schools, and district conversion charter schools.
- 2.04 "Science of reading" is the study of the relationship between cognitive science and educational outcomes, also referred to as scientific reading instruction.
- 2.05 "Structured literacy" is the approach by which licensed personnel teach reading in an explicit, systematic, cumulative, and diagnostic manner.

**3.00 REQUIRED PROFESSIONAL DEVELOPMENT IN SCIENTIFIC READING INSTRUCTION**

- 3.01 By the beginning of the 2019-2020 school year, a public school district shall establish the professional development program as required by Section 3.03 and the program shall be provided on an annual basis after the professional development in Section 4.02 is complete.
- 3.02 A public school district shall provide the following professional development in scientific reading instruction:
- 3.02.1 For teachers licensed at the elementary level in kindergarten through grade six (K-6) teaching math, science, social studies, or English language arts, teachers with a special education license in kindergarten through grade twelve (K-12), and teachers licensed as reading specialists in kindergarten through grade twelve (K-12), professional development for one (1) of the prescribed pathways to obtaining a proficiency credential in knowledge and practices in scientific reading instruction; and

- 3.02.2 For teachers licensed at a level other than those listed in Section 3.02.1, professional development for one (1) of the prescribed pathways to obtaining an awareness credential in knowledge and practices in scientific reading instruction.
- 3.03 A public school district shall include a literacy plan in the annual school-level improvement plan that shall include without limitation a curriculum program and a professional development program that is:
- 3.03.1 Aligned with the literacy needs of the district; and
- 3.03.2 Based on the science of reading.

#### **4.00 PROFICIENCY AND AWARENESS FOR EMPLOYMENT**

- 4.01 By the beginning of the 2021-2022 school year:
- 4.01.1 All teachers employed in any of the following teaching positions shall demonstrate proficiency in knowledge and practices of scientific reading instruction:
- 4.01.1.1 Elementary school teachers in grades kindergarten through six (K-6), teaching math, science, social studies, or English language arts;
- 4.01.1.2 Special education teachers;
- 4.01.1.3 English Language Learners teachers in grades kindergarten through six (K-6); and
- 4.01.1.4 Reading specialists.
- 4.01.2 All other educators shall demonstrate awareness in knowledge and practices of scientific reading instruction.
- 4.02 All teachers who begin employment in the 2021-2022 school year, and each school year thereafter, shall demonstrate proficiency or awareness in knowledge and practices in scientific reading instruction as is applicable to their teaching position by completing the prescribed proficiency or awareness in knowledge and practices of the scientific reading instruction credential either:
- 4.02.1 As a condition of licensure; or
- 4.02.2 Within one (1) year if the teacher is:

- 4.02.2.1 Already licensed; or
  - 4.02.2.2 Employed under a waiver from licensure.
- 4.03 Beginning in the 2021-2022 school year, each public school district must designate each teacher as having demonstrated proficiency or awareness in eFinance.
- 4.03.1 Each public school district must include the information required by Section 4.03 as part of the Cycle 2 submission to the Division.
- 4.04 Any educator whose license expires on December 31, 2021, or after, must have an awareness credential to renew his or her license.
- 4.04.1 If the educator does not have the required credential, the educator's license will not be renewed.
- 4.05 Teachers employed under a waiver or exception from licensure requirements are subject to the requirements of these Rules.
- 4.06 Professional development and determination measures to meet the proficiency or awareness requirement must be approved by the Division as a prescribed pathway, as set forth in Sections 5.00 and 6.00 below.

## **5.00 PRESCRIBED PATHWAYS FOR PROFICIENCY**

- 5.01 All teachers employed in any of the teaching positions in Section 4.01.1 of these Rules shall demonstrate proficiency in knowledge and practices of scientific reading instruction.
- 5.02 To demonstrate proficiency in knowledge and practices of scientific reading instruction, teachers must complete a prescribed pathway for proficiency.
- 5.02.1 Each pathway for proficiency shall have two phases:
    - 5.02.1 Phase I outlines professional learning that meets the knowledge and practices in scientific reading instruction approved by the Division.
    - 5.02.2 Phase II provides for the demonstration of knowledge and practices in scientific reading instruction.
      - 5.02.2.1 To complete Phase II for proficiency, an educator may pass a stand alone reading assessment approved by the State Board of Education, be

evaluated by a Certified Assessor, or meet one of the other approved pathways.

- 5.03 For purposes of Section 5.02.2.1, a Certified Assessor is a licensed educator that has completed the appropriate Science of Reading training, and who, in the normal scope of his or her duties, is tasked with observing teachers and required to conduct evaluations of personnel.
- 5.04 If a school district wishes to use a pathway other than a pathway already approved by the Division, the district may submit a request for the Division to review a specific Independent Professional Development (IPD) provider.
- 5.04.1 A request under Section 5.04 must be made by a district using the IPD Review Form on the Division website.
- 5.04.1.1 The district is responsible for submitting all necessary materials for consideration.
- 5.04.1.2 The request must be made by the district and requests directly from a vendor will not be accepted.
- 5.04.2 A review under Section 5.04 is a review of the training program provided to teachers and is not a review of the curriculum program.
- 5.04.3 If an IPD training program is approved, it will be added to the list of approved prescribed pathways for proficiency on the Division website.

## **6.00 PRESCRIBED PATHWAYS FOR AWARENESS**

- 6.01 All teachers that are not required to obtain a proficiency credential under Section 5.00, shall demonstrate an awareness in the knowledge and practices in scientific reading instruction by completing one of the prescribed pathways for awareness.
- 6.02 All approved prescribed pathways for awareness shall be listed on the Division website.

## **7.00 PROGRAM EVALUATION AND APPROVAL**

- 7.01 By the beginning of the 2020-2021 school year, the Division shall identify an approved list of materials, resources, and curriculum programs for public school districts that are supported by the science of reading and based on instruction that is explicit, systematic, cumulative, and diagnostic, including without limitation:
- 7.01.2 Evidence-based reading intervention programs; and

- 7.01.3 Evidence-based reading programs that are grounded in the science of reading; and
- 7.01.1 Dyslexia programs that are evidence-based and:
  - 7.01.1.1 Aligned to structured literacy; or
  - 7.01.1.2 Grounded in Orton-Gillingham methodology.
- 7.02 The approved list of materials, resources, and curriculum programs is established by a committee of educators or experts who have demonstrated proficiency in the knowledge and practices of scientific reading instruction.
- 7.03 The Division shall provide a submission window for public school districts to submit literacy programs for review.
- 7.04 The Division shall provide a submission window for independent vendors to submit literacy programs for review.
- 7.05 The Division shall publish a list of approved programs on the Division's website.
- 7.06 Beginning in the 2021-2022 school year, any public school district that purchases a curriculum program shall choose a curriculum program from the Division's approved list of curriculum programs.
  - 7.06.1 A public school district that chooses to purchase a curriculum program that is not from the Division's approved list of curriculum programs shall submit the following information to the Division for approval:
    - 7.06.1.1 The rationale for choosing the alternative curriculum program;
    - 7.06.1.2 Evidence-based research regarding the alternative curriculum program; and
    - 7.06.1.3 A signed letter from the Superintendent and School Board President requesting approval of the alternative curriculum program.
  - 7.06.2 A public school district receiving Level 3--coordinated support, Level 4--directed support, or Level 5--intensive support for reading, may only select an approved curriculum program from the list published pursuant to Section 7.06, and may not choose an alternative curriculum program under Section 7.06.1.

7.06.3 The Division shall publish the timeline for submission of requests for approval under Section 7.06.1 by Commissioner's Memo.

## **8.00 EDUCATOR PREPARATION PROGRAMS**

- 8.01 No later than May 2023, the following shall have proficient knowledge and skills to teach reading consistent with the best practices of scientific reading instruction:
- 8.01.1 A person who completes a state-approved educator preparation program leading to Elementary (K-6) or Special Education (K-12) licensure; and
  - 8.01.2 A person seeking Elementary (K-6) or Special Education (K-12) licensure by reciprocity or by adding an endorsement.
- 8.02 No later than May 2023, a person who completes a state-approved educator preparation program leading to licensure in an area other than those listed in Section 8.01 shall demonstrate an awareness of the best practices of scientific reading instruction.
- 8.03 A provider of a state-approved educator preparation program, graduate program, or alternative preparation program shall include in its annual report to the Division a description of the provider's program to prepare educators to teach reading using scientific reading instruction.

## **9.00 VIOLATIONS OF THE RIGHT TO READ ACT**

- 9.01 A public school district that violates the Right to Read Act, codified in Ark. Code Ann. § 6-17-429, or these Rules, or both, shall be in violation of the Standards for Accreditation of Arkansas Public Schools and School Districts and may be placed in probationary status by the Division.
- 9.01.1 Compliance with these Rules shall be monitored by desk monitoring, on-site monitoring, and monitoring of eFinance.
- 9.02 A public school district placed in probationary status under Section 9.01 shall send written notification to the parents of the students in the public school district of the reason for being placed in probationary status.
- 9.03 A provider of a state-approved educator preparation program, graduate program, or alternative preparation program that does not comply with the requirements of the Right to Read Act, codified in Ark. Code Ann. § 6-17-429, or these Rules, or both, may be subject to penalties up to and including having the provider's approval status revoked.

**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT/AGENCY:** Division of Elementary and Secondary Education, Arkansas Department of Education

**DIVISION:** Learning Services

**PERSON COMPLETING THIS STATEMENT:** Mary Claire Hyatt

**PHONE NO.:** 501-683-0960. **FAX NO.:** 501-682-4249 **E-MAIL:** 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 the Right to Read Act

1. Does this proposed, amended, or repealed rule have a financial impact?  
Yes \_\_\_\_\_ No  X
  
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  X  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 \_\_\_\_\_  X  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.
3. 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 \_\_\_\_\_ 0 \_\_\_\_\_  
Federal Funds \_\_\_\_\_

**Next Fiscal Year**

General Revenue \_\_\_\_\_ 0 \_\_\_\_\_  
Federal Funds \_\_\_\_\_



Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_  
 Total \_\_\_\_\_ 0 \_\_\_\_\_

Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_  
 Total \_\_\_\_\_ 0 \_\_\_\_\_

(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) \_\_\_\_\_  
 Total \_\_\_\_\_ 0 \_\_\_\_\_

General Revenue \_\_\_\_\_  
 Federal Funds \_\_\_\_\_  
 Cash Funds \_\_\_\_\_  
 Special Revenue \_\_\_\_\_  
 Other (Identify) \_\_\_\_\_  
 Total \_\_\_\_\_ 0 \_\_\_\_\_

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**

\$ \_\_\_\_\_ 0 \_\_\_\_\_

\$ \_\_\_\_\_ 0 \_\_\_\_\_

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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**

\$ \_\_\_\_\_ 0 \_\_\_\_\_

\$ \_\_\_\_\_ 0 \_\_\_\_\_

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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 \_\_\_\_\_ X \_\_\_\_\_

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.