

SUMMARY OF RULES:
ARKANSAS DIVISION OF ELEMENTARY AND SECONDARY EDUCATION RULES
GOVERNING THE RIGHT TO READ ACT

These Rules are new and are promulgated to satisfy the requirements of Ark Code Ann. § 6-17-429, which requires the Arkansas Division of Elementary and Secondary Education to write rules to implement the Right to Read Act.

Consistent with the Right to Read Act, Sections 3.00 and 4.00 of these Rules require professional development in scientific reading instruction, and require that all educators obtain either a proficiency or awareness credential in the knowledge and practices of scientific reading instruction by the beginning of the 2021-2022 school year.

Section 5.00 and 6.00 of the Rules explain which educators must obtain a proficiency credential and which educators must obtain an awareness credential, and outlines the process for completing the credentials.

Section 7.00 outlines how the Division will identify an approved list of materials, resources, and curriculum programs for districts that are supported by the science of reading and based on instruction that is explicit, systematic, cumulative, and diagnostic. Section 7.00 also outlines the process for obtaining approval of an alternative curriculum program.

Section 8.00 of the Rules contains the requirements for educator preparation programs to comply with the Right to Read Act.

Section 9.00 of the Rules explain the Division's mechanisms for enforcement of the Right to Read Act.

QUESTIONNAIRE FOR FILING PROPOSED RULES WITH THE
ARKANSAS LEGISLATIVE COUNCIL

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

DIVISION: Learning Services

DIVISION DIRECTOR: Stacy Smith

CONTACT PERSON: Mary Claire Hyatt

ADDRESS: Four Capitol Mall, Room 302A, Little Rock, AR 72201

PHONE NO.: 501-683-0960. **FAX NO.:** 501-682-4249 **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:

Jessica C. Sutton
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201

- 1. What is the short title of this rule? Rules Governing the Right to Read Act
- 2. What is the subject of the proposed rule? Implementation of the right to read act
- 3. Is this rule required to comply with a federal statute, rule, or regulation? Yes _____ No X
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 X
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 rule. **The Rule implements the Right to Read Act, passed in 2017 and amended in 2019. As additional requirements were added to the law in 2019, a new rule is necessary.**

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.”**

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, 6-17-402, 6-17-429, and 25-15-201 et seq.
7. What is the purpose of this proposed rule? Why is it necessary? This rule is necessary to fulfill the obligation to promulgate rules to implement the Right to Read Act, to inform schools of their obligation to provide professional development, and to inform teachers of the requirement to obtain a proficiency or awareness credential in the science of reading.
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/pending>
9. Will a public hearing be held on this proposed rule? Yes No
If yes, please complete the following:
Date: October 24, 2019
Time: 1:30pm
Place: ADE, Auditorium—4 Capitol Mall
10. When does the public comment period expire for permanent promulgation? (Must provide a date.)
November 1, 2019
11. What is the proposed effective date of this proposed rule? (Must provide a date.)
Estimated January 1, 2019
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.

13. Please provide proof of filing the rule with the Secretary of State as required pursuant to Ark. Code Ann. § 25-15-204(e).
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. Schools, school districts, teachers, administrators, and education groups.

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.
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 _____ 0 _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____ 0 _____

Next Fiscal Year

General Revenue _____ 0 _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____ 0 _____

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

Current Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total _____ 0 _____

Next Fiscal Year

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

\$ _____ 0 _____

Next Fiscal Year

\$ _____ 0 _____

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

\$ _____ 0 _____

Next Fiscal Year

\$ _____ 0 _____

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.

Subject: Re: Notice of Rulemaking
Date: Monday, September 30, 2019 at 5:03:10 PM Central Daylight Time
From: Lori Freno (ADE)
To: legalads@arkansasonline.com
CC: Mary Claire Hyatt (ADE)

Thanks! Please run it on host three consecutive days.

Lori Freno
General Counsel
Division of Elementary & Secondary Education
Arkansas Department of Education
(501) 682-4234

On Sep 30, 2019, at 4:51 PM, "legalads@arkansasonline.com" <legalads@arkansasonline.com> wrote:

Lori,

Because deadline for Wed 10/2 was at 4:00 PM today, this notice can now appear in print at the soonest on Thurs 10/3.

Running this notice for three (3) days in a row (Thurs 10/3, Fri 10/4, and Sat 10/5):

The notice would appear in print only in Pulaski County and the 12 counties of NW Arkansas (Benton Co., Boone Co., Carroll Co., Crawford Co., Franklin Co., Johnson Co., Logan Co., Madison Co., Newton Co., Scott Co., Sebastian Co., and Washington Co.), because those counties are the only ones that still receive daily delivery of our printed edition on Monday-Saturday. This will NOT appear in print in any other county (including Clark Co.), because no other county in Arkansas receives daily delivery of our printed edition on Monday-Saturday.

The notice would appear in our digital replica, which is available only to subscribers.

The notice would appear on our website, ArkansasOnline.com beginning at (or just very shortly after) 12 noon Thurs 10/3.

If you decide you need statewide publication, you may schedule the notice to appear on Sunday(s) only, since Sunday is the only day of the week we deliver the printed edition to all 75 counties in Arkansas.

Let me know how to proceed ASAP before 4:00 PM Tuesday, Oct. 1st.

Thanks,

Gregg Sterne, Legal Advertising

Arkansas Democrat-Gazette
legalads@arkansasonline.com

From: "Lori Freno (ADE)" <Lori.Freno@arkansas.gov>
To: legalads@arkansasonline.com
Sent: Monday, September 30, 2019 4:22:29 PM
Subject: RE: Notice of Rulemaking

Based upon my conversation with you all, it will run either digitally OR in print every day. So for example, I live in Clark County and only get the newspaper in print on Sunday but get it digitally every other day. The ad will appear in the paper in the Clark County digital version of the paper on 10/2 (Wed), 10/3 (Thurs), and 10/4 (Friday). Is that correct?

Best regards,

Lori Freno
General Counsel
Arkansas Department of Education
Division of Elementary and Secondary Education
Four Capitol Mall, Room 302A
Little Rock, AR 72201
Office: (501) 682-4234

From: legalads@arkansasonline.com <legalads@arkansasonline.com>
Sent: Monday, September 30, 2019 2:54 PM
To: Lori Freno (ADE) <Lori.Freno@arkansas.gov>
Subject: Re: Notice of Rulemaking

Lori,

To run this on Wed 10/2, Thurs 10/3, and Fri 10/4: the notice will only appear in Pulaski County and the 12 counties of NW Arkansas. If you need statewide coverage, we only offer that in print and digital on Sundays only.

Let me know how to proceed.

Thanks,

Gregg Sterne, Legal Advertising
Arkansas Democrat-Gazette
legalads@arkansasonline.com

From: "Lori Freno (ADE)" <Lori.Freno@arkansas.gov>
To: legalads@arkansasonline.com
Cc: "Mary Claire Hyatt" <MaryClaire.Hyatt@arkansas.gov>
Sent: Monday, September 30, 2019 2:46:29 PM
Subject: RE: Notice of Rulemaking

All please. Doesn't matter if it's print or electronic. Just as long as it's three days in a row.
Thanks so much for asking!!

Best regards,

Lori Freno
General Counsel
Arkansas Department of Education
Division of Elementary and Secondary Education
Four Capitol Mall, Room 302A
Little Rock, AR 72201
Office: (501) 682-4234

From: legalads@arkansasonline.com <legalads@arkansasonline.com>
Sent: Monday, September 30, 2019 2:28 PM
To: Lori Freno (ADE) <Lori.Freno@arkansas.gov>
Subject: Re: Notice of Rulemaking

Lori,

Which county/counties does this need to appear in?

Beginning next Monday (October 7th), the following counties in Arkansas will be the only ones that receive daily (Monday - Saturday) delivery of the printed edition of the Arkansas Democrat-Gazette:

Benton
Boone
Carroll
Crawford
Franklin
Johnson
Logan

Madison
Newton
Scott
Sebastian
Washington

Sunday is now the only day that the printed newspaper is delivered to all 75 counties in Arkansas.

If you need your notice published statewide, or in a county that does NOT appear on this list, the notice will have to be scheduled to run on Sunday(s) only.

Let me know what you decide ASAP.

Thanks,

Gregg Sterne, Legal Advertising
Arkansas Democrat-Gazette
legalads@arkansasonline.com

From: "Lori Freno (ADE)" <Lori.Freno@arkansas.gov>
To: legalads@arkansasonline.com
Cc: "Mary Claire Hyatt" <MaryClaire.Hyatt@arkansas.gov>
Sent: Monday, September 30, 2019 2:01:13 PM
Subject: Notice of Rulemaking

Good afternoon! Would you please run the attached ad for three consecutive days? Also, would you please let me know the dates on which the ads will run? Thanks so much.

Best regards,

Lori Freno
General Counsel
Arkansas Department of Education
Division of Elementary and Secondary Education
Four Capitol Mall, Room 302A
Little Rock, AR 72201
Office: (501) 682-4234

ARKANSAS DIVISION OF ELEMENTARY AND SECONDARY EDUCATION RULES
GOVERNING THE RIGHT TO READ ACT

Effective Date: _____

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" 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 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 take the Foundations of Reading Assessment, 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 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 7.07.1.

7.06.3 The Division shall publish the timeline for submission of requests for approval under Section 7.07.1 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 education 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 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 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 these Rules may be subject to penalties up to and including having the provider's approval status revoked.