

# ARKANSAS REGISTER

## Proposed Rule Cover Sheet



Secretary of State  
John Thurston  
500 Woodlane Street, Suite 026  
Little Rock, Arkansas 72201-1094  
(501) 682-5070  
[www.sos.arkansas.gov](http://www.sos.arkansas.gov)



Name of Department \_\_\_\_\_

Agency or Division Name \_\_\_\_\_

Other Subdivision or Department, If Applicable \_\_\_\_\_

Previous Agency Name, If Applicable \_\_\_\_\_

Contact Person \_\_\_\_\_

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

Contact Phone \_\_\_\_\_

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Name of Rule \_\_\_\_\_

Newspaper Name \_\_\_\_\_

Date of Publishing \_\_\_\_\_

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Location and Time of Public Meeting \_\_\_\_\_

**ARKANSAS DEPARTMENT OF EDUCATION DIVISION OF ELEMENTARY  
AND SECONDARY EDUCATION RULES GOVERNING EYE AND VISION  
SCREENING REPORT IN ARKANSAS PUBLIC SCHOOLS**

**March 2, 2020**

**1.0 PURPOSE**

The purpose of these Rules is to establish the requirements and procedures for governing eye and vision screening procedures and test standards in Arkansas Public Schools.

**2.0 REGULATORY AUTHORITY**

These Rules are enacted pursuant to the authority of the State Board of Education under Ark. Code Ann. §§ 6-18-1501et seq. and 25-15-201 et seq.

**3.0 DEFINITIONS**

For the purpose of these rules, the following terms mean:

3.01 “Commission” means the Arkansas Commission on Eye and Vision Commission Care of School Age Children, ~~÷ A commission~~ which is established by the State of Arkansas to study the eye and vision needs of school age children, evaluate current vision screening programs, and make recommendations to develop a strategic state wide plan to ensure adequate eye and vision care for the school age children of Arkansas.

3.02 “Division” means the Arkansas Division of Elementary and Secondary Education.

3.03 “Screening” ~~÷ To~~ means to test in order to separate according to skills or ability.

~~3.03 — Preschool Student: Any four year old child participating in a PK/4 year old program on a school campus.~~

3.04 Vision Care Consultant ~~— An~~ means an optometrist or ophthalmologist.

**4.0 VISION SCREENINGS / APPROVED INSTRUMENTS**

4.01 ~~Beginning with the 2006-2007 school year, all~~ All children students in pre-kindergarten (PK), kindergarten (K), grades one (1), two (2), four (4), six (6), and eight (8), and all transfer students shall receive an eye and vision screening.

4.02 The requirements in these Rules apply to students attending all public schools  
~~This requirement applies to public schools and~~ public charter schools.

4.03 Nothing in ~~this act~~ these Rules shall preclude voluntary screening of any

educational grade or preclude the referral of any ~~child~~ student, regardless of grade, ~~whom~~ who the teacher or school nurse feels should be screened or examined.

- 4.04 The responsibility for the enforcement of ~~this section~~ these Rules ~~rest rests~~ equally with each school district or charter school and the parent or guardian of the ~~child~~ student.
- 4.05 ~~The commission and the ADE shall evaluate and approve the vision screening instruments, equipment, and other testing items that are used to conduct the eye and vision screenings~~ The Division and Commission establish in these Rules the tests, procedures, equipment, and instruments that shall be used to perform eye and vision screenings.
- 4.06 The approved screening process will include the following:
  - 4.06.1 Observation and external inspection of the eye;
  - 4.06.2 Distance visual acuity test using a Snellen Eye Chart at twenty feet (20') or an age or developmentally appropriate chart at ten feet (10') outside a vision-screening instrument;
  - 4.06.3 A plus lens visual acuity test using a Snellen Eye Chart at twenty feet (20') or an age or developmentally appropriate chart at ten feet (10') outside a vision screening instrument;
  - 4.06.4 Lateral muscle balance test at far;
  - 4.06.5 Vertical muscle balance test at far;
  - 4.06.6 Fusion or binocularity at far;
  - 4.06.7 Lateral muscle balance test at near;
  - 4.06.8 Fusion or binocularity at near; and
  - 4.06.9 Color perception.
  - 4.06.10 Screening instruments and equipment must be approved. These instruments may include, but are not limited to the following:
    - 4.06.10.1 Titmus Vision Screener ~~or~~;
    - 4.06.10.2 Keystone Vision Screener ~~or~~ ;
    - 4.06.10.3 Optec Vision Screener;
    - 4.06.10.4 Slides necessary to perform required test;
    - 4.06.10.5 Occluder;
    - 4.06.10.6 Plus 2.00 lens;
    - 4.06.10.7 Snellen Chart;
    - 4.06.10.8 Age appropriate vision screening chart;
    - 4.06.10.9 Color perception booklet/instrument slide;
    - 4.06.10.10 Automated testing instrument (auto refractor); and

~~4.06.10.10~~ 4.06.10.11 Other approved instruments.

## 5.0 SCREENING

5.01 ~~In conjunction with the Department of Education, The Division and Commission the commission shall develop~~ shall set forth the following criteria for passage or failure of a vision screening and criteria for referral ~~of to~~ a comprehensive eye examination. ~~The criteria are as follows:~~

5.01.1 External Observation: Any obvious anomaly of the eyes, or periocular areas should cause referral for medical evaluation. Abnormal head positioning, such as, a chronic head tilt, should result in a failed screen. Obvious misalignment of the eyes should result in a screen failure.

5.01.2 Vision at 20 feet or 10 for age appropriate charts: Any eye with vision less than or equal to 20/40 shall result in a screen failure.

5.01.3 +2.00 lens test: Any ~~child~~ student that improves 2 or more lines of vision, such as, 20/40 to 20/20 with the +2.00 lens in front of either eye, shall result in screen failure.

5.01.4 Color Perception Test: This test shall be performed using an instrument slide or color-testing booklet or color perception slides. Any ~~child~~ student missing more than 25% of the cards or instrument slide would be deemed a color perception screen failure, but not referred for comprehensive eye examination. The parent and teacher shall be notified of the color perception screening failure.

5.01.5 ~~Success in meeting the following pass or failure~~ Passing or failing the following of instrument screenings:

5.01.5.1 Lateral Muscle Balance at far;

5.01.5.2 Vertical Muscle Balance at far;

5.01.5.3 Fusion at far;

5.01.5.4 Lateral Muscle Balance at near; and

5.01.5.5 Fusion at near.

5.02 Public schools may utilize an automated testing instrument to conduct the required vision screening tests for Pre-Kindergarten, Kindergarten, Grade One (1), and special health care needs students, as well as those students not capable of using the standard method set forth in these Rules, subject to the following:

5.02.1 The instrument must check distance vision and both lateral and vertical muscle balance;

5.02.2 Other tests required by these Rules must be completed using the standard screening methods, if possible; and

5.02.3 Districts that choose to utilize an automated screening instrument (auto refractor) must use the following protocol:

5.02.3.1 If a student fails with use of the automated instrument, the student must be re-screened with the standard school screening method when possible; and

5.02.3.2 Use of the automated screening instrument shall be documented in eSchool.

~~5.02~~ 5.03 An eye and vision screening report shall be sent or given to each parent or guardian of each ~~child~~ student in need of a comprehensive eye and vision examination that has failed ~~the~~ a second vision-screening test.

## **6.0 EYE EXAMS**

- 6.01 A ~~child~~ student who does not pass the eye and vision screening tests, except for the color perception test, shall be required to have a comprehensive eye and vision examination conducted by ~~an optometrist or ophthalmologist~~ vision care consultant within sixty (60) days of receipt of the vision screening report identifying the need for the examination.
- 6.02 The parent or guardian of the ~~child~~ student shall be responsible for ensuring that the ~~child~~ student receives the appropriate eye and vision examination.
- 6.03 The local school district shall take such action and access all resources necessary to encourage that the ~~child~~ student receives an appropriate examination. If a ~~child~~ student does not receive an appropriate examination, as evidenced by a certificate signed by ~~an optometrist or ophthalmologist~~ vision care consultant acknowledging the examination, then the ~~public school or charter school~~ where the child is registered shall report ~~the child this~~ to the ~~Department of Education Division~~.
- 6.04 A ~~child~~ student who has had a comprehensive eye and vision examination conducted by ~~an optometrist or ophthalmologist~~ vision care consultant within six (6) months of an eye and vision screening is not required to have another examination if the parent or guardian of the ~~child~~ student presents evidence of a comprehensive eye and vision examination in the form of a certificate signed by ~~an optometrist or ophthalmologist~~ a vision care consultant acknowledging the examination.
- 6.05 Transfer students who have been screened in their previous school during the current school year do not have to be rescreened at the new school. Schools may request the transfer student's vision screening from his/her school that was completed within the current school year.

## **7.0 FORMS**

- 7.01 ~~In conjunction with the Department of Education, the commission~~ The Division, in conjunction with the Commission, shall develop standardized forms to be used ~~with regard to~~ in conducting and reporting the results of eye and vision screenings.
- 7.02 The standardized forms shall include:
- 7.02.1 A vision screening form;
  - 7.02.2 A parent notification form;
  - 7.02.3 A doctor report form; and
  - 7.02.4 Any other forms deemed necessary by the ~~commission~~ Division or Commission.
- 7.03 Every public school ~~and charter school~~ shall use the standardized forms for eye and vision screening reports.

## **8.0 TRAINING**

- 8.01 The ~~Department of Education, in conjunction with the Arkansas Commission on Eye and Vision Care of School Age Children,~~ Division, in conjunction with the Commission, shall develop standards for training school nurses to perform eye and vision screenings.

## **9.0 REPORTING**

- 9.01 Each public school ~~and charter school~~ shall de-identify eye and vision screening results as necessary to comply with privacy laws and report the results by grade to the Division and Commission, ~~Department of Education and the Arkansas Commission on Eye and Vision Care of School Age Children.~~
- 9.02 The report shall include the following information:
- 9.02.1 The number of ~~children~~ students screened;
  - 9.02.2 The number of ~~children~~ students re-screened;
  - 9.02.3 The number of ~~children~~ students who did not receive an eye and vision screening;
  - 9.02.4 The number of ~~children~~ students referred for a comprehensive eye examination;
  - 9.02.5 The number of ~~children~~ students who failed the eye and vision screening who did not receive a comprehensive eye examination; and

9.02.6 The comprehensive eye examination will be reported as normal or treatment required.

9.03 Eye and vision screening shall be completed annually and reported to the ~~Arkansas Department of Education Division~~ by January 15<sup>th</sup> and an updated report in Cycle 7 reporting (by June 15<sup>th</sup>) of each school year.

9.04 Annually, the Commission and Division shall report its findings and updates to the Governor, the Legislative Council, and the House and Senate Committees on Public Health, Welfare, and Labor annually.

## **10.0 CONSULTANT**

Each school district is encouraged to select one (1) or more ~~optometrists or ophthalmologists~~ vision care consultants to serve as non-paid eye and vision care consultants to provide advice and assistance with eye and vision screenings and examinations.

## **~~11.0 — Arkansas Commission on Eye and Vision Care of School Age Children Reporting~~**

~~The commission and the Department of Education shall report its findings and updates to the Governor, the Legislative Council, and the House and Senate Interim Committees on Public Health, Welfare, and Labor annually.~~

## **SUMMARY OF AMENDMENTS**

### **DIVISION OF ELEMENTARY AND SECONDARY EDUCATION RULES GOVERNING EYE AND VISION SCREENING REPORT IN ARKANSAS PUBLIC SCHOOLS**

The proposed rules incorporate Act 320 of 2021, which authorizes the Division, in conjunction with the Arkansas Commission on Eye and Vision Care of School Age Children, to establish the tests, procedures, equipment, and instruments to be used to perform eye and vision screenings. The amendments provide that a school district may use an “automated testing instrument” (auto refractor instrument) to test certain students, and set forth a protocol to be followed if the instrument is used. They also change the timeline for school district vision screening and reporting to the Division (annually instead of twice annually), but does not change the annual reporting requirement to the Governor, Legislative Council, and Joint Public Health, Welfare, and Labor.



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

DEPARTMENT/AGENCY \_\_\_\_\_  
DIVISION \_\_\_\_\_  
DIVISION DIRECTOR \_\_\_\_\_  
CONTACT PERSON \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
PHONE NO. \_\_\_\_\_ FAX NO. \_\_\_\_\_ E-MAIL \_\_\_\_\_  
NAME OF PRESENTER AT COMMITTEE MEETING \_\_\_\_\_  
PRESENTER E-MAIL \_\_\_\_\_

**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
- D. Rule" below.
- E. Submit two (2) copies of the 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

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1. What is the short title of this rule?

2. What is the subject of the proposed rule?

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No

If yes, please provide the federal rule, regulation, and/or statute citation.

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?

Yes No

If yes, what is the effective date of the emergency rule? \_\_\_\_\_

When does the emergency rule expire? \_\_\_\_\_

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes No

**5. Is this a new rule? Yes No If yes, please provide a brief summary explaining the rule.**

**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.**

**7. What is the purpose of this proposed rule? Why is it necessary?**

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).

9. Will a public hearing be held on this proposed rule? Yes No If yes, please complete the following:

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Place: \_\_\_\_\_

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

\_\_\_\_\_

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

\_\_\_\_\_

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.

## **FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

DEPARTMENT \_\_\_\_\_  
DIVISION \_\_\_\_\_  
PERSON COMPLETING THIS STATEMENT \_\_\_\_\_  
TELEPHONE NO. \_\_\_\_\_ FAX NO. \_\_\_\_\_ EMAIL: \_\_\_\_\_

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

### **SHORT TITLE OF THIS RULE**

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

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 \_\_\_\_\_

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

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

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

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

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

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

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.