

ARKANSAS REGISTER

Proposed Rule Cover Sheet



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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 _____

Name of Rule _____

Newspaper Name _____

Date of Publishing _____

Final Date for Public Comment _____

Location and Time of Public Meeting _____

**ARKANSAS DIVISION OF ELEMENTARY AND SECONDARY EDUCATION RULES
GOVERNING THE RIGHT TO READ ACT
Effective Date: June 5, 2022**

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.~~

2.01 "High quality literacy screener" means an evidence-based literacy screener required as part of the statewide student assessment system under Arkansas Code § 6-15-2907.

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 or dyslexia interventionists teach reading in an explicit, systematic, cumulative, and diagnostic manner.

2.05.1 For purposes of these rules, a "dyslexia interventionist" means the same as in the Rules Governing Dyslexia Screenings and Interventions.

3.00 REQUIRED PROFESSIONAL DEVELOPMENT IN SCIENTIFIC READING INSTRUCTION

~~3.01 By the beginning of the 2019-2020 school year, a public school district, including an open-enrollment public charter school, 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~~ Beginning with the 2018-2019 school year, a ~~A~~ public school district, including an open enrollment public charter school, shall provide the following professional development in scientific reading instruction:

3.01.1 Professional development for one (1) of the prescribed pathways to obtaining a proficiency credential for teachers with a:

3.01.1.1 Kindergarten through sixth grade (K-6) license teaching:

3.01.1.1.a Math

3.01.1.1.b Science

3.01.1.1.c Social studies

3.01.1.1.d English language arts

3.01.1.2 Kindergarten through twelfth grade (K-12) licensed:

3.01.1.2.a In special education resource teaching English language arts; and

3.01.1.2.b As reading specialists.

~~3.02.1~~ 3.01.2 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.

3.01.3 Professional development for one (1) of the prescribed pathways to obtaining an awareness credential for licensed teachers other than those listed in Section 3.01.1

~~3.03~~ 3.02 By the beginning of the 2019-2020 school year, a ~~A~~ public school district, including an open enrollment public charter school, 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~~ 3.02.1 Aligned with the literacy needs of the district; and

~~3.03.2~~ 3.02.2 Based on the science of reading.

4.00 PROFICIENCY AND AWARENESS FOR EMPLOYMENT

4.01 By the beginning of the 2023-2024 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 grade six (K-6) teaching math, science, social studies, or English language arts;

4.01.1.2 ~~K-12~~ Special education teachers in kindergarten through grade twelve (K-12) who teach a special education course that directly relates to literacy;

4.01.1.3 Teachers of English Language Learners in ~~grades~~ kindergarten through grade six (K-6); and

4.01.1.4 Reading specialists.

4.01.2 A teacher described in Section 4.01.1 who has not demonstrated proficiency by the 2023-2024 school year may be afforded an opportunity to demonstrate proficiency by being placed in intensive support status for a period of time specified by the teacher's evaluator in the professional growth plan for the teacher.

4.01.2.1 A teacher described in Section 4.01.1 who has not demonstrated proficiency but is: teaching under a provisional license as a result of reciprocity with another state, teaching under an alternative route program approved by the department, working under an alternative licensure pathway, or moving grade levels meets the proficiency requirement if the teacher has a proficiency plan within the Educator Effectiveness Evaluation System.

4.01.3 All other educators shall demonstrate awareness in knowledge and practices of scientific reading instruction.

4.02 All teachers who begin employment in the 2023-2024 school year, and each following school year, 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.

4.02.3 The requirements under Sections 4.01 and 4.02 shall not apply to a teacher who:

4.02.3.1 Has already demonstrated proficiency through an approved, prescribed pathway; and

4.02.3.2 Is adding an endorsement to his or her teaching license.

4.03 Beginning in the 2023-2024 school year, each public school district, including open-enrollment public charter schools, must document each licensed teacher that has not demonstrated either proficiency or awareness in compliance with Section 4.00 of these Rules as part of professional development reporting requirements in eFinance.

~~4.03.1 Each public school district, including an open-enrollment public charter school, 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, 2023, 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~~ 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:

5.02.1.1 Phase I outlines professional learning that meets the knowledge and practices in scientific reading instruction approved by the Division of Elementary and Secondary Education.

~~5.02.2~~ 5.02.1.2 Phase II provides for the demonstration of knowledge and practices in scientific reading instruction.

~~5.02.2.1~~ 5.02.1.2.a To complete Phase II for proficiency, an educator ~~may~~ shall pass a stand-alone reading assessment approved by the State Board of Education, be deemed proficient by a ~~Certified Assessor~~ certified assessor, or ~~met~~ meet one of the other approved pathways.

~~5.03~~ 5.02.1.2.b For purposes of Section ~~5.02.2.1~~ 5.02.1.2.a, ~~a Certified Assessor is~~ “certified assessor” means a licensed educator that has completed ~~a Science of Reading Phase I of science of reading and science of reading assessor 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~~ 5.03 If a school district wishes to use a pathway other than a pathway already approved by the ~~Division~~ division, the district may submit a request for the ~~Division~~ division to review a specific Independent Professional Development (IPD) provider.

~~5.04.1~~ 5.03.1 A request under Section ~~5.04~~ 5.00 must be made by a district using the IPD Review Form on the ~~Division~~ division website.

~~5.04.1.1~~ 5.03.1.1 The district is responsible for submitting all necessary materials for consideration.

~~5.04.1.2~~ 5.03.1.1 The request must be made by the district and requests directly from a vendor will not be accepted.

~~5.04.2~~ 5.03.1 A review under Section ~~5.04~~ 5.00 is a review of the training program provided to teachers and is not a review of the curriculum program.

~~5.04.3~~ 5.03.1 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~~ educators who 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 of Elementary and Secondary Education's website.

7.00 PROGRAM EVALUATION AND APPROVAL

7.01 ~~By the beginning of the 2020-2021 school year, the Division~~ The Division of Elementary and Secondary Education 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~~ 7.01.1 Evidence-based reading intervention programs; ~~and~~

~~7.01.3~~ 7.01.2 Evidence-based reading programs that are grounded in the science of reading; and

~~7.01.4~~ 7.01.3 Dyslexia programs that are evidence-based and:

~~7.01.1.1~~ 7.01.3.1 Aligned to structured literacy; or

~~7.01.1.2~~ 7.01.3.2 Grounded in Orton-Gillingham methodology.

7.02 The approved list of materials, resources, and curriculum ~~programs~~ program criteria 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~~ Any public school district, including an open-enrollment public charter school, that purchases a curriculum program shall choose a curriculum program from the ~~Division's~~ 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~~ division's approved list of curriculum programs shall submit the following information to the ~~Division~~ 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~~ 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 under Arkansas Code § 6-15-2913, 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~~ division shall publish the timeline for submission of requests for approval under Section 7.06.1 by Commissioner's Memo.

7.07 By the beginning of the 2023-2024 school year, any public school district or open-enrollment public charter school that is using a curriculum program that is not from the division's approved list created under Section 7.00 shall notify all parents, legal guardians, and persons standing in loco parentis to students in writing and on the public school district's or open-enrollment public charter school's website.

8.00 EDUCATOR PREPARATION PROGRAMS

8.01 ~~No later than May 2023, the~~ 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~~ 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 of Elementary and Secondary Education a description of the provider's program to prepare educators to teach reading using scientific reading instruction.

8.04 The division shall audit each program under Section 8.00 at least one (1) time every three (3) years to verify compliance with this section.

9.00 VIOLATIONS OF THE RIGHT TO READ ACT

9.01 A public school district, including an open-enrollment public charter school, that violates the Right to Read Act, codified in ~~Ark. Code Ann.~~ Arkansas Code § 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 of Elementary and Secondary Education.

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, including an open-enrollment public charter school, 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.~~ Arkansas Code § 6-17-429, ~~or~~ these Rules, or both, may be subject to penalties up to and including having the provider's approval status revoked.

9.04 A public school district, including an open-enrollment public charter school, shall not use ~~the~~ a program of instruction for students in kindergarten through grade two (K-2) that is based in any practice or intervention program that utilizes the three-cueing system model of reading, visual memory as the primary basis for teaching word recognition, or the three-cueing system model of reading based on meaning, structure and syntax, and visual, also known as MSV.

9.05 Beginning with the 2023-2024 school year, if the state board determines that a public school district, including an open-enrollment public charter school, has violated Section 9.04 ~~of these rules~~, the state board shall notify the public school district of its violation.

9.05.1 If a public school district, including an open-enrollment public charter school, fails to remedy its violation under Section 9.04 ~~of these rules~~ within sixty (60) days of notification of its failure to comply, the state board shall direct the ~~Division~~ division to withhold a maximum of ten percent (10%) of the monthly distribution of state foundation funding aid to the public school district as provided under ~~Ark. Code Ann.~~ Arkansas Code § 6-20-2305(a)(1)(B).

9.05.2 Once the state board determines that a public school has complied with Section 9.04 ~~of the rules~~, the ~~Division~~ division shall restore the monthly distribution of state foundation funding aid to the public school district to its original amount before the reduction was made under Section 9.05.01 ~~of these rules~~.

10.00 LITERACY COACHES

10.01 Each kindergarten through grade three (K-3) teacher in a public school earning a “D” or “F” rating under Arkansas Code §§ 6-15-2105 or 6-15-2106 or State Board of Education rules, or a low-performing public school based on results of the public school's kindergarten through grade three (K-3) high quality literacy screener shall have access to a literacy coach to support increased literacy rates through coaching for teachers and administrators.

10.02 Subject to legislative appropriation, the Division of Elementary and Secondary Education shall provide, train, and assign literacy coaches to low-performing public schools based on results of the public school's kindergarten through grade three (K-3) high quality literacy screener.

10.03 A literacy coach shall have without limitation:

10.03.1 Expertise in both pedagogy and the science of reading;

10.03.2 Evidence of success in coaching and classroom instruction;

10.03.3 An understanding of learning disabilities in reading; and

10.03.4 An understanding of the child find mandate of the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq., as it existed on January 1, 2023.

10.04 A literacy coach shall:

- 10.04.1 Leverage knowledge of evidence-based instruction and practices aligned to the science of reading to support teachers in maximizing student learning;
- 10.04.2 Engage in instructional coaching cycles with teachers to build capacity for classroom instructional practices;
- 10.04.3 Deliver consistent and frequent job-embedded professional learning;
- 10.04.4 Design and facilitate relevant and cohesive professional learning sessions to strengthen the implementation of evidence-based instructional practices aligned to the science of reading with teachers;
- 10.04.5 Assist teachers in analyzing data to inform instructional adjustments;
- 10.04.6 Partner with teachers to integrate professional learning into classroom practice;
- 10.04.7 Work with teachers to ensure effective communication strategies and resource sharing with parents, legal guardians, and persons standing in loco parentis to students;
- 10.04.8 Partner with a public school principal or designated leader to connect school-wide literacy goals with evidence-based instruction and practices aligned to the science of reading;
- 10.04.9 Provide feedback on teachers' evidence-based instruction and practices that may be used for teacher evaluations;
- 10.04.10 Actively participate in professional learning experiences to deepen knowledge and skills for coaching;
- 10.04.11 Be compensated on a competitive salary schedule;
- 10.04.12 Receive a yearly bonus of up to ten thousand dollars (\$10,000) if the overall school score, of the schools the literacy coach is assigned to, demonstrates outstanding growth in student performance as determined by the state's value-added model system, and meets performance criteria set by the division; and
- 10.04.13 Meet performance criteria set by the division that may include:
 - 10.04.13.a Surveys;
 - 10.04.13.b Evaluation tools; and

10.04.13.c Student data.

11.00 LITERACY REQUIREMENTS UNDER THE RIGHT TO READ ACT

11.01 By no later than October 1 of each year, or as soon as practicable if a student's reading need is identified after October 1, each public school district and open-enrollment public charter school shall notify the parent, legal guardian, or person standing in loco parentis to a student regarding:

11.01.1 The student's eligibility to participate in the literacy tutoring grant program under Section 11.00;

11.01.2 The process for applying for the literacy tutoring grant program; and

11.01.3 Other information provided by the Division of Elementary and Secondary Education.

11.02 Beginning with the 2023-2024 school year, public school districts and open enrollment public charter schools shall:

11.02.1 Notify all parents, legal guardians, or persons standing in loco parentis to a student, in writing, in a parent-friendly manner, of their student's reading progress each time the student is assessed throughout the year using high quality literacy screener results.

11.02.1.1 The written notification in a parent-friendly manner required under this section may be in the language of communication preferred by a parent, legal guardian, or person standing in loco parentis to a student;

11.02.2 Develop an individual reading plan for each student in kindergarten through grade three (K-3) who does not meet the reading standard as:

11.02.2.1 Determined by the State Board of Education; and

11.02.2.2 Measured by a high-quality literacy screener or the state annual accountability assessment.

11.02.2.3 An individual reading plan shall include:

11.02.3.1.a The student's specific, diagnosed reading skill needs, including without limitation:

11.02.3.1.a.i Phonemic awareness;

11.02.3.1.a.ii Phonics decoding;

11.02.3.1.a.iii Text reading fluency;

11.02.3.1.a.iv Vocabulary-building strategies;
and

11.02.3.1.a.v Self-regulated use of reading
comprehension strategies, as
identified by high-quality literacy
screener data;

11.02.3.1.b The goals and benchmarks for the student's
growth;

11.02.3.1.c How the student's progress will be monitored
and evaluated;

11.02.3.1.d The type of additional instructional services and
interventions the student may receive;

11.02.3.1.e The intensive, evidence-based literacy
intervention program aligned to the science of
reading the student's teacher will use to address
the areas of phonemic awareness, phonics,
fluency, vocabulary, and comprehension;

11.02.3.1.f The strategies the student's parents, legal
guardians, or persons standing in loco parentis to
the student are encouraged to use in assisting the
student to achieve the student's reading goal; and

11.02.3.1.g Any additional services the student's teacher
determines are available and appropriate to
accelerate the student's reading skill
development;

11.02.3 Notify all parents, legal guardians, or persons standing in loco parentis to
a student in writing of the content of their child's independent reading
plan and progress on the independent reading plan throughout the year;
and

11.02.4 By the beginning of the 2024-2025 school year, report to the division
the:

11.02.4.1 Types of interventions used; and

11.02.4.2 Students receiving each type of intervention.

11.03 By the beginning of the 2025-2026 school year, if a public school student has not met the third-grade reading standard, as defined by the state board, or the student does not have a good-cause exemption, as provided under this section, the student shall not be promoted to fourth grade.

11.03.1 A student in grade three (3) who does not meet the reading standard for promotion to fourth grade may be promoted by the school district for good cause.

11.03.1.1 A good-cause exemption for promotion shall be limited to the following students:

11.03.1.1.a Limited English Proficiency students who have had less than three (3) years of instruction in an English language learner program.

11.03.1.1.b Students with a disability who are not eligible for the alternate assessment and who have an individualized education program or a 504 plan that reflects that the individual student:

11.03.1.1.b.i Has received an intensive, evidence-based literacy intervention program aligned to the science of reading for more than two (2) years; and

11.03.1.1.b.ii Still demonstrates a need in reading proficiency or previously was retained in kindergarten, grade one (1), grade two (2), or grade three (3);

11.03.1.1.c Students who:

11.03.1.1.c.i Have received an intensive, evidence-based literacy intervention program aligned to the science of reading for two (2) or more years;

11.03.1.1.c.ii Still demonstrate a need in reading proficiency and who

previously were retained in kindergarten, grade one (1), grade two (2), or grade three (3);

11.03.1.1.c.iii Have received a special education referral and a full comprehensive evaluation; and

11.03.1.1.c.iv Have not met exceptional education criteria;

11.03.1.1.d Students who have already been retained in kindergarten, grade one (1), grade two (2), or grade three (3) for one (1) year;

11.03.1.1.e Students who can demonstrate that they are successful and independent readers and can perform at or above grade level.

11.03.1.1.e.i A public school district and open enrollment public charter school may use certain tools in reevaluating a student in accordance with state board rules, which shall include without limitation subsequent student assessments or alternative assessments; and

11.03.1.1.f Other students with necessary, justifiable good-cause exemptions identified as appropriate by the state board, in consultation with reading experts.

11.03.2 For each student who does not meet the reading standard established by the state board by the end of third grade, including students who are promoted with good-cause exemptions to the fourth grade, during the subsequent summer and school year, the public school district or open enrollment public charter school in which the student is enrolled shall:

11.03.2.1 Provide at least ninety (90) minutes of evidence-based literacy instruction aligned to the science of reading during each school day;

11.03.2.2 Assign the student to a teacher with a value-added model score in the top quartile statewide in English language arts for the past three (3) years, or if the public school district or

open-enrollment public charter school is unable to identify a teacher with a value-added model score in the top quartile statewide in English language arts for the past three (3) years, assign the student to a teacher:

11.03.2.2.a With a highly-effective rating according to the Teacher Excellence and Support System, § 6-17-2801 et seq., where possible; or

11.03.2.2.b Deemed to be a high-performing teacher as defined by a Master Professional Educator designation;

11.03.2.3 Provide parents, legal guardians, or persons standing in loco parentis to students with a “read-at-home” plan to support student early literacy growth.

11.03.2.3.a A “read-at-home” plan shall include evidence-based science of reading strategies and tools that are aligned to a student’s individual reading plan for parents, legal guardians, or persons standing in loco parentis to a student to use with their children;

11.03.2.4 Identify eligible students for literacy tutoring grants under Section 11.00 and notify parents, legal guardians, or persons standing in loco parentis to a student regarding their child's eligibility;

11.03.2.5 Be given priority to receive a literacy tutoring grant; and

11.03.2.6 Be given the option to participate in additional intensive, evidence-based literacy intervention programs aligned to the science of reading.

10.00 12.00 EDUCATION OMBUDSMAN

~~10.01~~ 12.01 The Secretary of the ~~Division~~ Department of Education shall hire an Education Ombudsman to assist the ~~Division~~ department in the enforcement of these rules, including without limitation enforcing the requirements for demonstrating proficiency, providing professional development, and using a permitted program of instruction.

~~10.01.1~~ 12.01.1 The ~~Secretary of the Division~~ secretary may designate additional requirements related to public education, including without limitation the enforcement of literacy requirements.

~~10.01.2~~ 12.01.2 The ~~Secretary of the Division~~ secretary shall supervise the Education Ombudsman and shall not delegate supervision to an employee of the Division of Elementary and Secondary Education.

~~10.01.3~~ 12.01.3 The minimum qualifications for the Education Ombudsman shall include a master's degree in education or a related field. An individual who served as a past public school district superintendent or serves as a current public school district superintendent is not eligible to serve as the Education Ombudsman under this ~~Section~~ section.

~~10.01.4~~ 12.01.4 The Education Ombudsman may communicate with a public school student, with permission from a parent, legal guardian, or person standing in loco parentis of the public school student, a parent, legal guardian, or person standing in loco parentis of a public school student, and administration, faculty, and staff employed by a public school district, including an open-enrollment public charter school.

~~10.01.5~~ 12.01.5 The Education Ombudsman may review an issue or concern related to the education of a public school student enrolled in a public school, including an open-enrollment public charter school.

~~10.01.6~~ 12.01.6 The Education Ombudsman may recommend training and resources to a public school, public school district, including an open-enrollment public charter school.

~~10.01.7~~ 12.01.7 The Education Ombudsman shall prepare and submit an annual report to the state board concerning the work of the Education Ombudsman and any recommendations related to the focus areas of the Education Ombudsman.

~~10.01.7.1~~ 12.01.7.1 The report required under Section 10.01.07 of these ~~Rules~~ shall be submitted every two (2) years to the House Committee on Education and the Senate Committee on Education.

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

DEPARTMENT _____
BOARD/COMMISSION _____
BOARD/COMMISSION DIRECTOR _____
CONTACT PERSON _____
ADDRESS _____
PHONE NO. _____ EMAIL _____
NAME OF PRESENTER(S) AT SUBCOMMITTEE MEETING _____
PRESENTER EMAIL(S) _____

INSTRUCTIONS

In order to file a proposed rule for legislative review and approval, please submit this Legislative Questionnaire and Financial Impact Statement, and attach (1) a summary of the rule, describing what the rule does, the rule changes being proposed, and the reason for those changes; (2) both a markup and clean copy of the rule; and (3) all documents required by the Questionnaire.

If the rule is being filed for permanent promulgation, please email these items to the attention of Rebecca Miller-Rice, miller-ricer@blr.arkansas.gov, for submission to the Administrative Rules Subcommittee.

If the rule is being filed for emergency promulgation, please email these items to the attention of Director Marty Garrity, garritym@blr.arkansas.gov, for submission to the Executive Subcommittee.

Please answer each question completely using layman terms.

1. What is the official title of this rule?

2. What is the subject of the proposed rule? _____
3. Is this rule being filed under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, please attach the statement required by Ark. Code Ann. § 25-15-204(c)(1).

If yes, will this emergency rule be promulgated under the permanent provisions of the Arkansas Administrative Procedure Act? Yes No

4. Is this rule being filed for permanent promulgation? Yes No

If yes, was this rule previously reviewed and approved under the emergency provisions of the Arkansas Administrative Procedure Act? Yes No

If yes, what was the effective date of the emergency rule? _____

On what date does the emergency rule expire? _____

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

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

6. Is this rule required to comply with a *state* statute or rule? Yes No

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

7. Are two (2) rules being repealed in accord with Executive Order 23-02? Yes No

If yes, please list the rules being repealed.

If no, please explain.

8. Is this a new rule? Yes No

Does this repeal an existing rule? Yes No

If yes, the proposed repeal should be designated by strikethrough. If it is being replaced with a new rule, please attach both the proposed rule to be repealed and the replacement rule.

Is this an amendment to an existing rule? Yes No

If yes, all changes should be indicated by strikethrough and underline. In addition, please be sure to label the markup copy clearly as the markup.

9. What is the state law that grants the agency its rulemaking authority for the proposed rule, outside of the Arkansas Administrative Procedure Act? Please provide the specific Arkansas Code citation(s), including subsection(s).

10. Is the proposed rule the result of any recent legislation by the Arkansas General Assembly?
Yes No

If yes, please provide the year of the act(s) and act number(s).

11. What is the reason for this proposed rule? Why is it necessary?

12. Please provide the web address by which the proposed rule can be accessed by the public as provided in Ark. Code Ann. § 25-19-108(b)(1).

13. Will a public hearing be held on this proposed rule? Yes No

If yes, please complete the following:

Date: _____

Time: _____

Place: _____

Please be sure to advise Bureau Staff if this information changes for any reason.

14. On what date does the public comment period expire for the permanent promulgation of the rule? Please provide the specific date. _____

15. What is the proposed effective date for this rule? _____

16. Please attach (1) a copy of the notice required under Ark. Code Ann. § 25-15-204(a)(1) and (2) proof of the publication of that notice.

17. Please attach proof of filing the rule with the Secretary of State, as required by Ark. Code Ann. § 25-15-204(e)(1)(A).

18. Please give the names of persons, groups, or organizations that you anticipate will comment on these rules. Please also provide their position (for or against), if known.

19. Is the rule expected to be controversial? Yes No

If yes, please explain.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT _____
BOARD/COMMISSION _____
PERSON COMPLETING THIS STATEMENT _____
TELEPHONE NO. _____ **EMAIL** _____

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

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 no, please explain:

(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 reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

(d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

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) _____

Total _____

Next Fiscal Year

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

Total _____

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

Current Fiscal Year

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

Total _____

Next Fiscal Year

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

Total _____

5. What is the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

Current Fiscal Year

\$ _____

Next Fiscal Year

\$ _____

6. What is the total estimated cost by fiscal year to a state, county, or 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.

SUMMARY OF RULE AMENDMENT

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

Act 237 of 2023, amended the Right to Read Act codified at Ark. Code Ann. § 6-17-429.

As part of the amendment, the Act created a literacy coach program for low-performing public schools based on results of high-quality literacy screeners. The Act requires the Department to provide, train, and assign literacy coaches to low-performing public schools. This rule outlines eligibility and qualifications for literacy coaches and sets goals for those literacy coaches.

Additionally, the rule sets out requirements for school districts to monitor and notify parents of their students' progress in reading and develop intervention programs and reading plans for underperforming students.

This rule also amends the requirements for which teachers must have proficiency in, and awareness of the science of reading, to align with policy goals.

POST-PUBLIC COMMENT

Notice of Rulemaking

Pursuant to Arkansas Code Annotated § 25-15-201 et seq., notice is hereby given that the Division of Elementary and Secondary Education is considering new administrative rules. Public comment hearings will be held for the following rules: DESE Rule Governing Public School Choice on April 17, 2024, at 10:00 a.m.; DESE Rule Governing Petitions for Student Transfers on April 17, 2024 at 1:00 p.m.; DESE Rule Governing Public School Policies Relating to Overnight Trips and Use of Public School Lavatories on April 18, 2024 at 10:00 a.m.; DESE Rule Governing the Student Protection Act on April 18, 2024 at 1:00 p.m.; DESE Rule Governing Educator Performance on April 19, 2024 at 10:00 a.m.; DESE Rule Governing Community Service on April 19, 2024 at 1:00 p.m.; DESE Rule Governing the Right to Read Act on April 19, 2024 at 3:00 p.m. All hearings will be held at the Arkansas Department of Education, Arch Ford Building, Four Capitol Mall, Little Rock, AR, 72201. The public comment period for these rules ends on April 24, 2024. Written comments regarding these proposed rules may be mailed to ADE Legal Services, Four Capitol Mall, Room 302A, Little Rock, AR, 72201. Comments also may be emailed to ADE.RulesComments@ade.arkansas.gov. A copy of the proposed rules can be found on the Division of Elementary and Secondary Education's website at: <https://dese.ade.arkansas.gov/Offices/legal/rules/pending>. Copies also may be obtained by contacting ADE's Office of Legal Services at the above address or via phone at (501) 683-1390.