

ARKANSAS REGISTER

Proposed Rule Cover Sheet



Secretary of State
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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 _____



Division of Elementary and Secondary Education

Transforming Arkansas to lead the nation in student-focused education

Jacob Oliva
Secretary

June 17, 2024

Stacy Smith
Deputy
Commissioner

Proposed Rule Amendment - Governing Distance and Digital Learning

PURPOSE

The Division of Elementary and Secondary Education (DESE) is seeking the Governor's review of proposed rule amendments to the Rules Governing Distance and Digital Learning.

**State Board of
Education**

BACKGROUND

Act 237 of 2023, Sections 17-19, and Act 724 of 2023, made changes affecting the requirements for distance and digital learning. The Division is promulgating these rule amendments to implement those changes.

Dr. Sarah Moore
Stuttgart
Chair

KEY POINTS

- Removed the requirement that DESE must annually provide a copy of the approved digital learning provider list to the House Committee on Education and the Senate Committee on Education.
- Removes the requirements a digital learning environment previously had to meet.
- Amends requirements to become an approved digital learning provider.
- Removes the requirement that each high school student had to take at least one (1) digital learning course to graduate.
- Removes the requirement that school districts and charter schools offer digital learning courses to expelled students.
- Makes formatting changes in advance of the Code of Arkansas Rules.

Kathy Rollins
Springdale
Vice-Chair

Adrienne Woods
Rogers

Randy Henderson
Blytheville

Lisa Hunter
White Hall

DISCUSSION

Act 724 of 2023 removed the requirement that public school districts and charter schools had to offer digital learning courses, or other alternative educational courses for which a student may receive academic credit, to a student who had been expelled. This rule is being amended to remove similar language.

Jeff Wood
Little Rock

Ken Bragg
Sheridan

Act 237 of 2023, Sections 17 through 19, removed the requirement that DESE must annually provide a copy of the approved digital learning provider list to the House Committee on Education and the Senate Committee on Education; removed the requirements a digital learning environment previously had to meet; amended requirements to become an approved digital learning provider; removed the requirement that each high school student had to take at least one (1) digital learning course to graduate. This rule is being amended to remove and amend similar language.

Leigh Keener
Little Rock

RECOMMENDATION

The Division of Elementary and Secondary Education recommends Governor's Office approval of the amendments to these rules.

**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? _____ students.
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.

Arkansas Code § 6-16-1406 and § 6-47-201.

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.

**DIVISION OF ELEMENTARY AND SECONDARY EDUCATION
RULES GOVERNING DISTANCE AND DIGITAL LEARNING
May 2020**

1.00 Purpose

1.01 The purpose of these Rules is to:

1.01.1 ~~set~~Set reasonable guidelines for the coordination and implementation of learning where the teacher and student are separated by place; and

1.01.2 ~~to provide~~Provide guidance for the implementation of digital learning environments that offer student-centered, personalized, and flexible learning options.

1.02 These Rules are intended to:

1.02.1 ~~ensure~~Ensure that distance learning is available to every Arkansas student who wishes to participate; and

1.02.2 ~~to improve~~Improve content and course offerings available to students—, including Advanced Placement courses or other academic courses not otherwise available—, and encourage innovation in education; and

1.02.3 ~~to prepare~~Prepare students for participation in the information age economy.

1.03 In order to ensure proper implementation, the Division of Elementary and Secondary Education shall work with other state agencies involved in distance and digital learning to implement distance and digital learning throughout the state.

2.00 Authority

2.01 The ~~Arkansas~~ State Board of Education's authority for promulgating these Rules is pursuant to ~~Ark. Code Ann.~~ Arkansas Code §§ 6-16-1401 et seq., and 6-47-201 et seq., ~~and Act 709 of 2019.~~

3.00 Definitions

3.01 “~~Adult Facilitator~~facilitator” ~~is~~means the person responsible for supervising and assisting the students at a brick-and-mortar location.

3.01.1 The adult facilitator must be an adult approved by the school district or open-enrollment public charter school.

3.02 “Blended ~~Learning~~learning” ~~is~~means education in which instruction and content are delivered through supervised instruction in a classroom and online delivery of instruction with some element of student control over;

3.02.1 ~~time~~Time;

3.02.2 ~~place~~Place;

3.02.3 ~~path~~Path; or

3.02.4 ~~pace~~Pace.

3.03 “Digital ~~Learning~~learning” ~~is~~means a digital technology or internet-based educational delivery model that does not rely exclusively on compressed interactive video.

3.03.1 Digital learning may be a type of distance learning.

3.04 “Digital ~~Learning Provider~~learning provider” ~~is~~means an agency or entity approved by the Division of Elementary and Secondary Education pursuant to these rules that ~~provide~~provides digital learning courses to public schools.

3.05 “Distance ~~Learning~~learning” is:

3.05.1 ~~an~~An interactive telecommunications system that utilizes information technology ~~and/or~~and audio, video, and similar technological elements, or both;

3.05.2 ~~is compatible~~Compatible with other distance learning networks; and

3.05.3 ~~is used~~Used for the purpose of enhancing instructional opportunities in Arkansas public schools.

3.05.4 Distance learning may or may not utilize digital learning.

3.06 —“Division” is the Division of Elementary and Secondary Education.

~~3.07~~3.06 “Infrastructure” ~~is~~means an interlinked system of:

3.06.1 ~~wires~~Wires;

3.06.2 ~~cables~~Cables;

3.06.3 ~~fiber~~Fiber optics; or

3.06.4 ~~other~~Other wireline or wireless communications media.

~~3.08~~3.07 “~~Public School Student Accessing Courses at a Distance~~school student accessing all courses at a distance” ~~is~~means a student who attends ~~all~~six (6) or more classes virtually through a public school district or open-enrollment public charter school.

~~3.09~~3.08 “~~Supplemental Instruction~~instruction” ~~is~~means instruction used to:

~~3.08.1~~reinforce~~Reinforce~~ or enrich a course; or

~~3.08.2~~to provide~~Provide~~ the student an educational opportunity outside of the normal course structure.

~~3.10~~3.09 “~~Teacher of Record~~teacher of record” ~~is~~means the appropriately licensed or approved educator responsible for:

~~3.10.13~~3.09.1 Ensuring the course content is aligned with the appropriate Arkansas ~~Academic Standards~~academic standards and course frameworks approved by the:

~~3.09.1.1~~ _____ Division of Elementary and Secondary Education; or

~~3.09.1.2~~ _____ Division of Career and Technical Education;

~~3.10.23~~3.09.2 Providing direct instruction as necessary; and

~~3.10.33~~3.09.3 Assigning a grade or completion status for the course.

~~3.10.43~~3.09.4 The ~~Teacher of Record~~teacher of record shall be responsible for supervising the administration of student assessments or ensuring, through a designee, that appropriate supervision of administration of student assessments is provided.

~~3.10.53~~3.09.5 A ~~Teacher of Record~~teacher of record can be either an employee of a school district or open-enrollment public charter school or an employee of a digital learning provider.

~~3.11~~3.10 “~~Technology~~” ~~is~~means any equipment for instructional purposes that is electronic in nature, including, but not limited to:

~~3.10.1~~computer~~Computer~~ hardware;:

~~3.10.2~~computer~~Computer~~ software;: and

~~3.10.3~~internet~~Internet~~ connectivity.

4.00 Arkansas Distance Learning Development Program

- 4.01 The Arkansas Distance Learning Development Program shall be:
- 4.01.1 ~~conducted~~Conducted by the Division of Elementary and Secondary Education; and
 - 4.01.2 ~~administered~~Administered through the Commissioner of Elementary and Secondary Education.
- 4.02 The ~~Arkansas Distance Learning Development Program~~program shall have four (4) focus areas:
- 4.02.1 To help alleviate the increasing shortage of available qualified teachers;
 - 4.02.2 To provide additional course-scheduling opportunities for students;
 - 4.02.3 To provide an opportunity for students to access an enriched curriculum and additional courses beyond those mandated by the Rules Governing the Standards for Accreditation of Arkansas Public Schools and School Districts; and
 - 4.02.4 To develop and make available online professional development and instructional resources for all teachers and administrators.
- 4.03 The funding necessary to carry out the provisions of Section 4.00 may be derived from donations, grants or legislative appropriation.
- 4.03.1 The ~~Commissioner~~commissioner may solicit and receive donations and grants for the purpose of administering the program. ~~Arkansas Distance Learning Development Program~~.
 - 4.03.2 All donations, grants, and appropriations received shall be accounted for by the ~~Division~~division.
 - 4.03.3 Fund balances may be carried over from one (1) year to the next to continue the ~~Arkansas Distance Learning Development Program~~program.
- 4.04 The ~~Commissioner~~commissioner shall review the implementation of the ~~Arkansas Distance Learning Development Program~~program annually and make recommendations to the State Board of Education regarding the number and amount of awards to ensure that the purpose of the ~~Arkansas Distance Learning Development Program~~program is achieved.
- 4.05 The ~~Commissioner~~commissioner may enter into contracts or provide grants to local education agencies, education service cooperatives, or other entities for

personnel, facilities, and services necessary to implement the ~~Arkansas Distance Learning Development Program~~ program.

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

5.00 Distance Learning Grants

- 5.01 The following grant standards are hereby developed to provide grants to education service cooperatives for acquiring equipment and receiving telecommunications services necessary for each school district to have distance learning availability.
- 5.02 The grants shall be used to assist school districts;
- 5.02.1 ~~that~~ That do not have distance learning capabilities; and
- 5.02.2 ~~to assist school districts in~~ In upgrading existing distance learning capabilities.
- 5.03 The grants shall also be used by the education service cooperatives to provide technical assistance to the school districts in implementing and maintaining distance learning as an educational tool.
- 5.04 Each school district shall have adequate connectivity to provide quality of service for distance learning.
- 5.05 Distance learning technical protocols shall be in alignment with technical standards set by the Director of the Division of Information Systems.
- 5.06 Education service cooperatives and school districts shall coordinate with the Division of Elementary and Secondary Education to seek to obtain the benefits of the Federal Communications Commission's E-Rate ~~discount program~~ Program.

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

Note: These rules provide minimum distance learning educational supervision requirements only and are not designed to replace legal or other student supervision responsibilities schools have to properly protect and supervise students.

- 6.01 Courses offered through distance learning shall include, without limitation:

6.01.1 College preparatory courses, including, without limitation,;

6.01.1.1 ~~calculus~~Calculus;

6.01.1.2 ~~physics~~Physics;

6.01.1.3 ~~Arkansas history~~;

6.01.1.4 ~~foreign~~Foreign languages; and

6.01.1.5 ~~computer~~Computer science; and

6.01.2 Technological courses, including, without limitation,;

6.01.2.1 ~~advanced~~Advanced math and science courses;

6.01.2.2 ~~advanced~~Advanced computer skills courses; and

6.01.2.3 ~~advanced~~Advanced courses in the arts.

6.02 All distance learning courses shall follow the Arkansas ~~Academic Standards~~academic standards and course frameworks regardless of digital provider.

6.02.1 Schools may utilize courses from outside the state if the out-of-state provider is approved by the Division of Elementary and Secondary Education before the school offers the courses.

6.02.2 Any out-of-state provider shall provide assurances of alignment with Arkansas ~~Academic Standards~~academic standards and course frameworks through the application process.

6.02.3 Districts that choose to offer additional digital offerings that are not currently approved for credit may;

6.02.3.1 ~~offer~~Offer the course for no credit or local credit only; or

6.02.3.2 ~~submit~~Submit the course through the course approval process.

6.03 All distance learning courses shall have a teacher of record who is an appropriately licensed or approved primary instructor and is responsible for the course.

6.03.1 School districts are responsible for ensuring that the teacher of record in a digital learning platform is performing job responsibilities as a teacher of record.

6.04 Each receiving site shall have an adult facilitator to:

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

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

6.05 Student achievement assessments shall be designed to assess the degree to which a student masters the approved content standards and curriculum framework for the distance learning course.

6.06 Distance learning that is purely supplemental instruction:

6.06.1 ~~shall~~ Shall be considered an enhancement to the teacher's regular instruction; and

6.06.2 ~~shall~~ Shall not be subject to the restrictive provisions of these rules.

6.06.3 This includes any incorporation of digital resources that does not provide the student with some element of control over the time, place, path, and/or ~~or~~ pace in the delivery.

6.07 Distance learning courses shall be considered large group instruction courses for the purposes of the Rules Governing the Standards for Accreditation of Arkansas Public Schools and School Districts.

6.08 Any public school district or open-enrollment public charter school offering distance learning courses shall abide by the policies adopted by the distance learning provider or supplier of courses in such a way that students taking distance learning courses are able to participate in the courses without falling outside of established attendance policies.

6.09 Attendance in distance learning courses shall be determined by the online attendance and time the student is working on the course as monitored by the school district or open-enrollment public charter school to ensure the student progresses toward credit attainment for the course.

7.00 Participation in Distance Learning Courses

7.01 A public school district or open-enrollment public charter school may offer and teach distance learning courses to a student enrolled in a private school or a home school if:

7.01.1 The student resides in the public school district where the public school or open-enrollment public charter school is located;

7.01.2 The student agrees to physically attend the public school or open-enrollment public charter school for the purposes of taking state tests and assessments required for the particular course or courses taken by the student; and

7.01.2.1 Section 7.01.2 shall not be construed to require a home-schooled student or private school student to take any test or assessment not specifically required for completion of the course for which the student is enrolled.

7.01.3 The distance learning course is:

7.01.3.1 ~~approved~~ Approved by the Division of Elementary and Secondary Education; or

7.01.3.2 ~~is aligned~~ Aligned with the appropriate content standards and curriculum frameworks developed and approved by the:

7.01.3.2.a State Board of Education; or

7.01.3.2.b Division of Career and Technical Education.

7.01.4 The Commissioner of Elementary and Secondary Education may waive the requirements of Section 7.01 on an individual basis for a student who is unable to attend due to conditions that prevent the child from physically attending a public school or open-enrollment public charter school, upon written request from the parent mailed to:

Office of the Commissioner
ATTN: Distance and Digital Learning Waiver
Division of Elementary and Secondary Education
Four Capitol Mall
Little Rock, Arkansas AR 72201

7.02 A public school district or open-enrollment public charter school that teaches or offers a distance learning course that complies with section 6.00 of these rules to one (1) or more home-schooled or private school students, including those participating in the Educational Freedom Account Program, who meet the conditions of 7.01 shall be entitled to an amount equal to one-sixth (1/6) of the state foundation funding amount for each course taught to a private school student or home-schooled student.

- 7.03 A public school district or open-enrollment public charter school shall not be entitled to more than the equivalent of state foundation funding for one (1) average daily membership per student regardless of the number of distance learning courses received by a particular home-schooled or private school student.
- 7.04 A student may take all courses virtually through a public school district or open-enrollment public charter school.
- 7.04.1 Once a student who formerly was home-schooled or attended a private school accesses all courses virtually through a public school district or open-enrollment public charter school, the student is designated as a public school student accessing all courses at a distance.
- 7.04.1.1 All laws pertaining to public school students shall pertain to a public school student accessing all courses at a distance.
- 7.04.1.2 A student designated as a public school student accessing all courses at a distance is considered enrolled full-time in a public school for purposes of eligibility for the Educational Freedom Account Program.
- 7.04.1.3 A private school student taking anything less than all courses virtually shall not be:
- 7.04.1.3.a Designated as a public school student accessing all courses at a distance; nor
- 7.04.1.3.b Considered enrolled full-time in a public school for purposes of eligibility for the Educational Freedom Account Program.

~~8.00 Digital Learning Environment~~

- ~~8.01 A digital learning environment shall be composed of:~~
- ~~8.01.1 Access to quality digital learning content and online blended learning courses;~~
- ~~8.01.2 Tailored digital content designed to meet the needs of each student;~~
- ~~8.01.2 Digital learning content that meets or exceeds the curriculum standards and requirements adopted by the State Board of~~

~~Education that is capable of being assessed and measured through standardized tests or local assessments; and~~

~~8.01.3 Infrastructure that is sufficient to handle and facilitate a quality digital learning environment.~~

9.008.00 Digital Learning Providers

~~9.01.8.01~~ To become an approved digital learning provider a digital learning provider shall submit proof that the provider:

~~9.01.18.01.1~~ Is ~~nonsectarian and~~ nondiscriminatory in its programs, employment practices, and operations;

~~9.01.28.01.2~~ Demonstrates or partners with an organization that demonstrates successful experience in furnishing digital learning courses to public school students as demonstrated by student growth in each subject area and grade level for which it proposes to provide digital learning courses;

~~9.01.38.01.3~~ Provides digital learning services that meet or exceed the minimum curriculum standards and requirements established by the State Board of Education and ensures instructional and curricular quality through a curriculum and accountability plan that addresses every subject area and grade level for which it agrees to provide digital learning courses; and

~~9.01.48.01.4~~ Utilizes qualified teachers to deliver digital learning courses to public school students.

~~9.01.4.18.01.4.1~~ A qualified teacher who delivers digital learning courses under this section is not required to be licensed as a teacher or administrator by the State Board, but shall meet the minimum qualifications for teaching in a core content area established by rules of the State Board.

~~9.02 The Division of Elementary and Secondary Education or State Board of Education shall not require as a condition of approval of a digital learning provider that the digital learning provider limit the delivery of digital learning courses to public schools that require physical attendance at the public school to successfully complete the credit for which the digital learning course is provided.~~

~~9.038.02~~ To become an approved digital learning provider in Arkansas, a prospective digital learning provider shall complete the application found on the Division of Elementary and Secondary Education's Learning Services webpage

and provide the completed application by March 1 of the year in which the provider intends to participate to:

ATTN: Digital Learning Provider Applications
Arkansas Division of Elementary and Secondary Education
Division of Learning Services
Four Capitol Mall
Little Rock, AR 72201

9.048.03 Public school districts and open-enrollment public charter schools that provide digital learning courses to their own students without the assistance of an external digital learning provider are not required to seek approval as a digital learning provider pursuant to these rules.

9.058.04 Public school districts and open-enrollment public charter schools that provide digital learning courses to students other than their own students without the assistance of an external digital learning provider are required to seek approval as digital learning providers pursuant to these rules.

9.068.05 Digital learning services may be procured from both in-state and out-of-state digital learning providers. ~~Out-of-state providers approved by the Division must provide assurance through the application process that courses align to the Arkansas Academic Standards and course frameworks.~~

9.078.06 The Division of Elementary and Secondary Education shall annually:

9.07.1 ~~Publish~~ publish a list of approved digital learning providers, ~~that offer digital learning services; and~~

9.07.2 ~~Provide a copy of the list of approved digital learning providers to the House Committee on Education and the Senate Committee on Education no later than June 1 of each year.~~

10.009.00 Digital Learning Courses

10.019.01 All public school districts and open-enrollment public charter schools shall provide at least one (1) digital learning course to their students as either a primary or supplementary method of instruction.

10.029.02 All digital learning courses provided by public school districts and open-enrollment public charter schools shall:

10.02.19.02.1 Be of high quality;

10.02.29.02.2 Meet or exceed the curriculum standards and requirements established by the State Board of Education; and

~~10.02.39.02.3~~ Be made available in a blended learning, online-based, or other technology-based format tailored to meet the needs of each participating student.

~~10.039.03~~ Digital learning courses shall be capable of being assessed and measured through standardized tests or local assessments.

~~10.04~~ Each high school student shall be required to take at least one (1) digital learning course for credit to graduate. The course may be provided by the district or a digital provider and made available in a blended learning, online-based, or other technology-based format.

~~10.059.04~~ The ~~State Board of Education~~state board:

~~9.04.1 shall~~Shall not limit the number of digital learning courses for which a student may receive credit through a public school district or open-enrollment public charter school; and

~~9.04.2 shall~~Shall ensure that digital learning courses may be used as both primary and secondary methods of instruction.

~~10.06~~ A public school district or open-enrollment public charter school that expels a student shall offer to the expelled student digital learning courses or other alternative educational courses for which the student may receive academic credit that is at least equal to the credit the expelled student may have received if he or she was still enrolled in his or her assigned public school or open-enrollment public charter school immediately before he or she was expelled.

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 the following new administrative rules or amendments to the following administrative rules: DESE Rules Governing Distance and Digital Learning; DESE Rules Governing Grading and Course Credit; DESE Rules Governing Special Education and Related Services, Sec. 18.00 – Residential Placement; and DESE Rules Governing EFA Payment Processing.

Public comment hearings will be held for the forgoing rules on January 14, 2025 at 10:00am at the Arkansas Department of Education, Arch Ford Building, Four Capitol Mall, Little Rock, AR, 72201 in the ADE Auditorium. The public comment period for these rules ends on January 27, 2025. 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.