

## **Title 6. Education**

### **Chapter I. Division of Elementary and Secondary Education**

#### **Subchapter D. Student Instruction and Learning**

#### **Part 93. Rules Governing Distance and Digital Learning**

**Codification Notes.** This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"2.00 Authority

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

"May 2020"

#### **Subpart 1. Generally**

##### **6 CAR § 93-101. Purpose.**

(a) The purpose of this part is to:

(1) Set reasonable guidelines for the coordination and implementation of learning where the teacher and student are separated by place; and

(2) Provide guidance for the implementation of digital learning environments that offer student-centered, personalized, and flexible learning options.

(b) This part is intended to:

(1) Ensure that distance learning is available to every Arkansas student who wishes to participate;

(2) 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

(3) Prepare students for participation in the information age economy.

(c) 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.

**Authority.** Arkansas Code §§ 6-16-1406, 6-47-201.

**6 CAR § 93-102. Definitions.**

As used in this part:

(1)(A) "Adult facilitator" means the person responsible for supervising and assisting the students at a brick-and-mortar location.

(B) The adult facilitator must be an adult approved by the school district or open-enrollment public charter school;

(2) "Blended learning" 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:

(A) Time;

(B) Place;

(C) Path; or

(D) Pace;

(3)(A) "Digital learning" means a digital technology or internet-based educational delivery model that does not rely exclusively on compressed interactive video.

(B) Digital learning may be a type of distance learning;

(4) "Digital learning provider" means an agency or entity approved by the Division of Elementary and Secondary Education pursuant to this part that provides digital learning courses to public schools;

(5)(A) "Distance learning" is:

(i) An interactive telecommunications system that utilizes information technology and/or audio, video, and similar technological elements;

(ii) Compatible with other distance learning networks; and

(iii) Used for the purpose of enhancing instructional opportunities in Arkansas public schools.

(B) Distance learning may or may not utilize digital learning;

(6) "Division" means the Division of Elementary and Secondary Education;

(7) "Infrastructure" means an interlinked system of:

(A) Wires;

(B) Cables;

(C) Fiber optics; or

(D) Other wireline or wireless communications media;

(8) "Public school student accessing courses at a distance" means a student who attends all classes virtually through a public school district or open-enrollment public charter school;

(9) "Supplemental instruction" means instruction used to:

(A) Reinforce or enrich a course; or

(B) Provide the student an educational opportunity outside of the normal course structure;

(10)(A) "Teacher of record" means the appropriately licensed or approved educator responsible for:

(i) Ensuring the course content is aligned with the appropriate Arkansas academic standards and course frameworks approved by the:

(a) Division of Elementary and Secondary Education; or

(b) Division of Career and Technical Education;

(ii) Providing direct instruction as necessary; and

(iii) Assigning a grade or completion status for the course.

(B) The 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.

(C) A 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; and

(11) "Technology" means any equipment for instructional purposes that is electronic in nature, including but not limited to:

- (A) Computer hardware;
- (B) Computer software; and
- (C) Internet connectivity.

**Authority.** Arkansas Code §§ 6-16-1406, 6-47-201.

**6 CAR § 93-103. Arkansas Distance Learning Development Program.**

(a) The Arkansas Distance Learning Development Program shall be:

- (1) Conducted by the Division of Elementary and Secondary Education; and
- (2) Administered through the Commissioner of Elementary and Secondary

Education.

(b) The program shall have four (4) focus areas:

- (1) To help alleviate the increasing shortage of available qualified teachers;
- (2) To provide additional course-scheduling opportunities for students;
- (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, 6 CAR pt. 61; and
- (4) To develop and make available online professional development and instructional resources for all teachers and administrators.

(c)(1) The funding necessary to carry out the provisions of this section may be derived from:

- (A) Donations;
- (B) Grants; or
- (C) Legislative appropriation.

(2) The commissioner may solicit and receive donations and grants for the purpose of administering the program.

(3) All donations, grants, and appropriations received shall be accounted for by the division.

(4) Fund balances may be carried over from one (1) year to the next to continue the program.

(d) The commissioner shall review the implementation of the 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 program is achieved.

(e) The 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 program.

(f) Students taking courses through the program shall be considered entitled to any public education credits and grades assigned through the program and those credits and grades shall be accepted by all public schools in the State of Arkansas.

**Authority.** Arkansas Code §§ 6-16-1406, 6-47-201.

**6 CAR § 93-104. Distance learning grants.**

(a) 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.

(b) The grants shall be used to assist school districts:

- (1) That do not have distance learning capabilities; and
- (2) In upgrading existing distance learning capabilities.

(c) 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.

(d) Each school district shall have adequate connectivity to provide quality of service for distance learning.

(e) Distance learning technical protocols shall be in alignment with technical standards set by the Director of the Office of State Technology.

(f) 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 Program.

**Authority.** Arkansas Code §§ 6-16-1406, 6-47-201.

**6 CAR § 93-105. Requirements for the administration of distance learning in elementary and secondary schools.**

(a) **Note.** This part:

(1) Provides minimum distance learning educational supervision requirements only; and

(2) Is not designed to replace legal or other student supervision responsibilities schools have to properly protect and supervise students.

(b) Courses offered through distance learning shall include without limitation:

(1) College preparatory courses, including without limitation:

- (A) Calculus;
- (B) Physics;
- (C) Arkansas history;
- (D) Foreign languages; and
- (E) Computer science; and

(2) Technological courses, including without limitation:

- (A) Advanced math and science courses;
- (B) Advanced computer skills courses; and
- (C) Advanced courses in the arts.

(c)(1) All distance learning courses shall follow the Arkansas academic standards and course frameworks regardless of digital provider.

(2) 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.

(3) Any out-of-state provider shall provide assurances of alignment with Arkansas academic standards and course frameworks through the application process.

(4) Districts that choose to offer additional digital offerings that are not currently approved for credit may:

(A) Offer the course for no credit or local credit only; or

(B) Submit the course through the course approval process.

(d)(1) 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.

(2) 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.

(e) Each receiving site shall have an adult facilitator to:

(1) Supervise any instructional activity where students meet as a group; and

(2) Administer all student achievement assessments used to determine a student's final grade.

(f) 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.

(g)(1) Distance learning that is purely supplemental instruction:

(A) Shall be considered an enhancement to the teacher's regular instruction; and

(B) Shall not be subject to the restrictive provisions of this part.

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

(h) 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 CAR pt. 61.

(i) 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.

(j) 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.

**Authority.** Arkansas Code §§ 6-16-1406, 6-47-201.

**6 CAR § 93-106. Participation in distance learning courses.**

(a)(1) 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:

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

(B)(i) 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.

(ii) Subdivision (a)(1)(B) of this section 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; and

(C) The distance learning course is:

(i) Approved by the Division of Elementary and Secondary Education;

or

(ii) Aligned with the appropriate content standards and curriculum frameworks developed and approved by the:

(a) State Board of Education; or

(b) Division of Career and Technical Education.

(2) The Commissioner of Elementary and Secondary Education may waive the requirements of this subsection 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, AR 72201

(b) A public school district or open-enrollment public charter school that teaches or offers a distance learning course that complies with 6 CAR § 93-105 to one (1) or more home-schooled or private school students who meet the conditions of subsection (a) of this section 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.

(c) 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.

(d)(1) A student may take all courses virtually through a public school district or open-enrollment public charter school.

(2) 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 a public school student accessing courses at a distance.

(3) All laws pertaining to public school students shall pertain to a public school student accessing courses at a distance.

**Authority.** Arkansas Code §§ 6-16-1406, 6-47-201.

**6 CAR § 93-107. Digital learning environment.**

A digital learning environment shall be composed of:

- (1) Access to quality digital learning content and online blended learning courses;
- (2) Tailored digital content designed to meet the needs of each student;
- (3) 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
- (4) Infrastructure that is sufficient to handle and facilitate a quality digital learning environment.

**Authority.** Arkansas Code §§ 6-16-1406, 6-47-201.

**6 CAR § 93-108. Digital learning providers.**

(a) To become an approved digital learning provider, a digital learning provider shall submit proof that the provider:

- (1) Is nonsectarian and nondiscriminatory in its:
  - (A) Programs;
  - (B) Employment practices; and
  - (C) Operations;
- (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;
- (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

(4)(A) Utilizes qualified teachers to deliver digital learning courses to public school students.

(B) 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.

(b) The Division of Elementary and Secondary Education or state board 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.

(c) To become an approved digital learning provider in Arkansas, a prospective digital learning provider shall:

(1) Complete the application found on the division's Learning Services webpage; and

(2) Provide the completed application by March 1 of the year in which the provider intends to participate to:

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

(d) 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 this part.

(e) 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 this part.

(f)(1) Digital learning services may be procured from both in-state and out-of-state digital learning providers.

(2) Out-of-state providers approved by the Division of Elementary and Secondary Education must provide assurance through the application process that courses align to the Arkansas academic standards and course frameworks.

(g) The Division of Elementary and Secondary Education shall annually:

(1) Publish a list of approved digital learning providers that offer digital learning services; and

(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.

**Authority.** Arkansas Code §§ 6-16-1406, 6-47-201.

**6 CAR § 93-109. Digital learning courses.**

(a) 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.

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

(1) Be of high quality;

(2) Meet or exceed the curriculum standards and requirements established by the State Board of Education; and

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

(c) Digital learning courses shall be capable of being assessed and measured through standardized tests or local assessments.

(d)(1) Each high school student shall be required to take at least one (1) digital learning course for credit to graduate.

(2) The course may be:

(A) Provided by the district or a digital provider; and

(B) Made available in a blended learning, online-based, or other technology-based format.

(e) The state board:

(1) 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

(2) Shall ensure that digital learning courses may be used as both primary and secondary methods of instruction.

(f) 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.

**Authority.** Arkansas Code §§ 6-16-1406, 6-47-201.