

Title 6. Education

Chapter I. Division of Elementary and Secondary Education

Subchapter D. Student Instruction and Learning

Part 90. Rules Governing the Right to Read Act

Subpart 1. Generally

6 CAR § 90-101. Definitions.

As used in this part:

(1) "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) "Prescribed pathway" means approved professional development that meets the criteria established by the Division;

(3) "Public school district" includes:

(A) Traditional public schools;

(B) Open-enrollment public charter schools; and

(C) District conversion charter schools;

(4) "Science of reading" is the study of the relationship between cognitive science and educational outcomes, also referred to as scientific reading instruction; and

(5)(A) "Structured literacy" is the approach by which licensed personnel or dyslexia interventionists teach reading in an explicit, systematic, cumulative, and diagnostic manner.

(B) For purposes of this part, a "dyslexia interventionist" means the same as in the Rules Governing Dyslexia Screenings and Interventions, 6 CAR pt. 91.

6 CAR § 90-102. Required professional development in scientific reading instruction.

(a) A public school district, including an open-enrollment public charter school, shall provide the following professional development in scientific reading instruction:

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

(A) Kindergarten through grade six (K-6) license teaching:

- (i) Math;
- (ii) Science;
- (iii) Social studies; and
- (iv) English language arts; and

(B) Kindergarten through grade twelve (K-12) licensed:

- (i) In special education resource teaching English language arts; and
- (ii) As reading specialists;

(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) Professional development for one (1) of the prescribed pathways to obtaining an awareness credential for licensed teachers other than those listed in subdivision (a)(1) of this section.

(b) 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:

- (1) Aligned with the literacy needs of the district; and
- (2) Based on the science of reading.

6 CAR § 90-103. Proficiency and awareness for employment.

(a)(1) By the beginning of the 2023-2024 school year, all teachers employed in any of the following teaching positions shall demonstrate proficiency in knowledge and practices of scientific reading instruction:

(A) Elementary school teachers in kindergarten through grade six (K-6) teaching:

- (i) Math;
- (ii) Science;
- (iii) Social studies; or
- (iv) English language arts;

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

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

(D) Reading specialists;

(2)(A) A teacher described in subdivision (a)(1) of this section 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.

(B) A teacher described in subdivision (a)(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.

(3) All other educators shall demonstrate awareness in knowledge and practices of scientific reading instruction.

(b)(1) 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:

(A) As a condition of licensure; or

(B) Within one (1) year if the teacher is:

(i) Already licensed; or

(ii) Employed under a waiver from licensure.

(2) The requirements under subsection (a) of this section and subdivision (b)(1) of this section shall not apply to a teacher who:

(A) Has already demonstrated proficiency through an approved, prescribed pathway; and

(B) Is adding an endorsement to his or her teaching license.

(c) 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 this section as part of professional development reporting requirements in eFinance.

(d)(1) Any educator whose license expires on December 31, 2023, or after must have an awareness credential to renew his or her license.

(2) If the educator does not have the required credential, the educator's license will not be renewed.

(e) Teachers employed under a waiver or exception from licensure requirements are subject to the requirements of this part.

(f) Professional development and determination measures to meet the proficiency or awareness requirement must be approved by the division as a prescribed pathway as set forth in 6 CAR §§ 90-104 – 90-105.

6 CAR § 90-104. Prescribed pathways for proficiency.

(a) All teachers employed in any of the teaching positions in 6 CAR § 90-103(a)(1) shall demonstrate proficiency in knowledge and practices of scientific reading instruction.

(b)(1) To demonstrate proficiency in knowledge and practices of scientific reading instruction, teachers must complete a prescribed pathway for proficiency.

(2) Each pathway for proficiency shall have two (2) phases:

(A) Phase I outlines professional learning that meets the knowledge and practices in scientific reading instruction approved by the Division of Elementary and Secondary Education; and

(B)(i) Phase II provides for the demonstration of knowledge and practices in scientific reading instruction.

(ii) To complete Phase II for proficiency, an educator shall:

(a) Pass a stand-alone reading assessment approved by the State Board of Education;

(b) Be deemed proficient by a certified assessor; or

(c) Meet one of the other approved pathways.

(c) For purposes of subdivision (b)(2)(B)(ii) of this section, "certified assessor" means a licensed educator who:

(1) Has completed Phase I of science of reading and science of reading assessor training; and

(2) In the normal scope of his or her duties is:

(A) Tasked with observing teachers; and

(B) Required to conduct evaluations of personnel.

(d)(1) If a school district wishes to use a pathway other than a pathway already approved by the division, the district may submit a request for the division to review a specific Independent Professional Development (IPD) provider.

(2)(A) A request under this section must be made by a district using the IPD Review Form on the division website.

(B) The district is responsible for submitting all necessary materials for consideration.

(C) The request must be made by the district and requests directly from a vendor will not be accepted.

(3) A review under this section:

(A) Is a review of the training program provided to teachers; and

(B) Is not a review of the curriculum program.

(4) If an IPD training program is approved, it will be added to the list of approved prescribed pathways for proficiency on the division's website.

6 CAR § 90-105. Prescribed pathways for awareness.

(a) All educators who are not required to obtain a proficiency credential under 6 CAR § 90-104 shall demonstrate an awareness in the knowledge and practices in scientific reading instruction by completing one (1) of the prescribed pathways for awareness.

(b) All approved prescribed pathways for awareness shall be listed on the Division of Elementary and Secondary Education's website.

6 CAR § 90-106. Program evaluation and approval.

(a) 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:

- (1) Evidence-based reading intervention programs;
- (2) Evidence-based reading programs that are grounded in the science of reading; and
- (3) Dyslexia programs that are evidence-based and:
 - (A) Aligned to structured literacy; or
 - (B) Grounded in Orton-Gillingham methodology.

(b) The approved list of materials, resources, and curriculum program criteria is established by a committee of educators or experts who have demonstrated proficiency in the knowledge and practices of scientific reading instruction.

(c)(1) 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 approved list of curriculum programs.

(2) A public school district that chooses to purchase a curriculum program that is not from the division's approved list of curriculum programs shall submit the following information to the division for approval:

(A) The rationale for choosing the alternative curriculum program;

(B) Evidence-based research regarding the alternative curriculum program; and

(C) A signed letter from the superintendent and school board president requesting approval of the alternative curriculum program.

(3) 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:

(A) May only select an approved curriculum program from the list published pursuant to this subsection; and

(B) May not choose an alternative curriculum program under subdivision (c)(2) of this section.

(4) The division shall publish the timeline for submission of requests for approval under subdivision (c)(2) by commissioner's memo.

(d) 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 this section 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.

6 CAR § 90-107. Educator preparation programs.

(a) The following shall have proficient knowledge and skills to teach reading consistent with the best practices of scientific reading instruction:

(1) A person who completes a state-approved educator preparation program leading to Elementary (K-6) or Special Education (K-12) licensure; and

(2) A person seeking Elementary (K-6) or Special Education (K-12) licensure by reciprocity or by adding an endorsement.

(b) A person who completes a state-approved educator preparation program leading to licensure in an area other than those listed in subsection (a) of this section shall demonstrate an awareness of the best practices of scientific reading instruction.

(c) 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.

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

6 CAR § 90-108. Violations of the Right to Read Act.

(a)(1) A public school district, including an open-enrollment public charter school, that violates the Right to Read Act, Arkansas Code § 6-17-429, this part, or both:

(A) Shall be in violation of the Rules Governing Standards for Accreditation of Arkansas Public Schools and School Districts, 6 CAR pt. 61; and

(B) May be placed in probationary status by the Division of Elementary and Secondary Education.

(2) Compliance with this part shall be monitored by:

(A) Desk monitoring;

(B) Onsite monitoring; and

(C) Monitoring of eFinance.

(b) A public school district, including an open-enrollment public charter school, placed in probationary status under subsection (a) of this section shall send written notification to the parents of the students in the public school district of the reason for being placed in probationary status.

(c) 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, this part, or both may be subject to penalties up to and including having the provider's approval status revoked.

(d) A public school district, including an open-enrollment public charter school, shall not use a program of instruction for students in kindergarten through grade two (K-2) that is based in any practice or intervention program that utilizes:

- (1) The three-cueing system model of reading;
- (2) Visual memory as the primary basis for teaching word recognition; or
- (3) The three-cueing system model of reading based on meaning, structure and syntax, and visual, also known as MSV.

(e)(1) 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 subsection (d) of this section, the state board shall notify the public school district of its violation.

(2) If a public school district, including an open-enrollment public charter school, fails to remedy its violation under subsection (d) of this section within sixty (60) days of notification of its failure to comply, the state board shall direct the 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 Arkansas Code § 6-20-2305(a)(1)(B).

(3) Once the state board determines that a public school has complied with Section 9.04, the 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.

6 CAR § 90-109 Literacy coaches.

(a) 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.

(b) 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.

(c) A literacy coach shall have without limitation:

- (1) Expertise in both pedagogy and the science of reading;
- (2) Evidence of success in coaching and classroom instruction;
- (3) An understanding of learning disabilities in reading; and
- (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.

(d) A literacy coach shall:

- (1) Leverage knowledge of evidence-based instruction and practices aligned to the science of reading to support teachers in maximizing student learning;
- (2) Engage in instructional coaching cycles with teachers to build capacity for classroom instructional practices;
- (3) Deliver consistent and frequent job-embedded professional learning;
- (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;
- (5) Assist teachers in analyzing data to inform instructional adjustments;
- (6) Partner with teachers to integrate professional learning into classroom practice;
- (7) Work with teachers to ensure effective communication strategies and resource sharing with parents, legal guardians, and persons standing in loco parentis to students;
- (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;
- (9) Provide feedback on teachers' evidence-based instruction and practices that may be used for teacher evaluations;

- (10) Actively participate in professional learning experiences to deepen knowledge and skills for coaching;
- (11) Be compensated on a competitive salary schedule;
- (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:
 - (A) Demonstrates outstanding growth in student performance as determined by the state's value-added model system; and
 - (B) Meets performance criteria set by the division; and
- (13) Meet performance criteria set by the division that may include:
 - (A) Surveys;
 - (B) Evaluation tools; and
 - (C) Student data.

6 CAR § 90-110. Literacy requirements under the Right to Read Act.

(a) 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:

- (1) The student's eligibility to participate in the literacy tutoring grant program under this section;
- (2) The process for applying for the literacy tutoring grant program; and
- (3) Other information provided by the Division of Elementary and Secondary Education.

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

(1)(A) 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.

(B) 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;

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

(i) Determined by the State Board of Education; and

(ii) Measured by:

(a) A high-quality literacy screener; or

(b) The state annual accountability assessment.

(B) An individual reading plan shall include:

(i) The student's specific, diagnosed reading skill needs, including without limitation:

(a) Phonemic awareness;

(b) Phonics decoding;

(c) Text reading fluency;

(d) Vocabulary-building strategies; and

(e) Self-regulated use of reading comprehension strategies as identified by high-quality literacy screener data;

(ii) The goals and benchmarks for the student's growth;

(iii) How the student's progress will be monitored and evaluated;

(iv) The types of additional instructional services and interventions the student may receive;

(v) The intensive, evidence-based literacy intervention program aligned to the science of reading the student's teacher will use to address the areas of:

(a) Phonemic awareness;

(b) Phonics;

(c) Fluency;

(d) Vocabulary; and

(e) Comprehension;

(vi) 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

(vii) Any additional services the student's teacher determines are available and appropriate to accelerate the student's reading skill development;

(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

(4) By the beginning of the 2024-2025 school year, report to the division the:

(A) Types of interventions used; and

(B) Students receiving each type of intervention.

(c)(1) 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 grade four (4).

(2)(A) A student in grade three (3) who does not meet the reading standard for promotion to grade four (4) may be promoted by the school district for good cause.

(B) A good-cause exemption for promotion shall be limited to the following students:

(i) Limited English proficiency students who have had fewer than three (3) years of instruction in an English language learner program; and

(ii) 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:

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

(b) Still demonstrates a need in reading proficiency or previously was retained in:

(1) Kindergarten;

(2) Grade one (1);

(3) Grade two (2); or

(4) Grade three (3);

(iii) Students who:

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

(b) Still demonstrate a need in reading proficiency and who previously were retained in:

(1) Kindergarten;

(2) Grade one (1);

(3) Grade two (2); or

(4) Grade three (3);

(c) Have received a special education referral and a full comprehensive evaluation; and

(d) Have not met exceptional education criteria;

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

(v)(a) Students who can demonstrate that they are successful and independent readers and can perform at or above grade level.

(b) 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

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

(3) For each student who does not meet the reading standard established by the state board by the end of grade three (3), including students who are promoted with good-cause exemptions to grade four (4), during the subsequent summer and school year, the public school district or open-enrollment public charter school in which the student is enrolled shall:

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

(B) 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:

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

(ii) Deemed to be a high-performing teacher as defined by a Master Professional Educator designation;

(C)(i) Provide parents, legal guardians, or persons standing in loco parentis to students with a "read-at-home" plan to support student early literacy growth.

(ii) 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;

(D) Identify eligible students for literacy tutoring grants under this section and notify parents, legal guardians, or persons standing in loco parentis to a student regarding their child's eligibility;

(E) Be given priority to receive a literacy tutoring grant; and

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

6 CAR § 90-111. Education Ombudsman.

(a) The Secretary of the Department of Education shall hire an Education Ombudsman to assist the department in the enforcement of this part, including without limitation enforcing the requirements for:

(1) Demonstrating proficiency;

- (2) Providing professional development; and
- (3) Using a permitted program of instruction.

(b) The secretary may designate additional requirements related to public education, including without limitation the enforcement of literacy requirements.

(c) The secretary:

- (1) Shall supervise the Education Ombudsman; and
- (2) Shall not delegate supervision to an employee of the Division of Elementary and Secondary Education.

(d)(1) The minimum qualifications for the Education Ombudsman shall include a master's degree in education or a related field.

(2) 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.

(e) The Education Ombudsman may communicate with:

- (1) A public school student, with permission from a parent, legal guardian, or person standing in loco parentis to the public school student;
- (2) A parent, legal guardian, or person standing in loco parentis to a public school student; and
- (3) Administration, faculty, and staff employed by a public school district, including an open-enrollment public charter school.

(f) 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.

(g) The Education Ombudsman may recommend training and resources to a public school or public school district, including an open-enrollment public charter school.

(h)(1) 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.

(2) The report required under this subsection shall be submitted every two (2) years to the:

- (A) House Committee on Education; and
- (B) Senate Committee on Education.