

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 _____

Notice of Rulemaking

Pursuant to Arkansas Code Annotated § 25-15-201 et seq., notice is hereby given that the Arkansas State Board of Education and the Division of Elementary and Secondary Education are considering revisions to the following DESE Rules and are releasing them for public comment: School Safety.

A public hearing regarding these amended rules will be held on July 25, 2022, at 1:30 p.m. at the Arkansas Department of Education, Four Capitol Mall, Little Rock, AR 72201.

Written comments regarding these proposed rules may be mailed to the Office of Legal Services at Four Capitol Mall, Room 301A, Little Rock, AR 72201. Comments also may be emailed to ADE.RulesComments@ade.arkansas.gov. A copy of the proposed rules can be found at the Department's website at: <http://www.arkansased.org/divisions/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) 682-4227.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Arkansas Department of Education

DIVISION Division of Elementary and Secondary Education

PERSON COMPLETING THIS STATEMENT courtney.salas-ford@ade.arkansas.gov

TELEPHONE NO. (501) 682-4752 FAX NO. _____ EMAIL: courtney.salas-ford@ade.arkansas.gov

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

SHORT TITLE OF THIS RULE

Division of Elementary and Secondary Education Rules Governing School Safety

1. Does this proposed, amended, or repealed rule have a financial impact? Yes ☐ No ☒
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
Yes ☒ No ☐
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes ☒ No ☐

If an agency is proposing a more costly rule, please state the following:

- a) How the additional benefits of the more costly rule justify its additional cost;

- b) The reason for adoption of the more costly rule;

- c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and

- d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

Next Fiscal Year

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

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

Total \$ 0.00

Total \$ 0.00

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

Current Fiscal Year

Next Fiscal Year

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

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

Total \$ 0.00

Total \$ 0.00

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

Current Fiscal Year

Next Fiscal Year

\$ 0

\$ 0

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6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ 0

\$ 0

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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.

ARKANSAS DIVISION OF ELEMENTARY AND SECONDARY EDUCATION
RULES GOVERNING SCHOOL SAFETY
Effective July 2022

1.00 REGULATORY AUTHORITY

1.01 The State Board of Education enacts these rules pursuant to its authority as set forth in Ark. Code Ann. §§ 6-10-121, 6-10-128, 6-11-105, 6-15-1302, 6-15-1303, 6-17-113, and 25-15-201 et seq., and Acts 622 and 648 of 2021.

2.00 DEFINITIONS

2.01 “Arkansas Center for School Safety” is the state school-safety clearinghouse administered by the Criminal Justice Institute (CJI) of the University of Arkansas System, through a partnership between CJI and the Arkansas Department of Education, Division of Elementary and Secondary Education (Division), and provides education, training, resources, and technical assistance to Arkansas educators and law enforcement professionals to assist them in meeting the school-safety needs of students in Arkansas public schools and providing them with a safe school environment.

2.02 “Public school district” means:

2.02.1 A geographic area that qualifies as a taxing unit for purposes of ad valorem property taxes under Ark. Code Ann. § 26-1-101 et seq. and Arkansas Constitution, Article 14, § 3, and is either:

2.02.1.1 Governed by an elected board of directors; or

2.02.1.2 Under the administrative control of the State Board or the Commissioner of Education in place of an elected board of directors; or

2.02.2 An open-enrollment public charter school, as defined in Ark. Code Ann. § 6-23-103.

2.03 “School Resource Officer” means sworn law enforcement personnel whose primary duties are not solely supervisory, and institutional law enforcement officers as described in Ark. Code Ann. § 6-13-1701 et seq.

2.04 “Superintendent” means the person responsible for oversight of all operations of the public school district as defined in these rules.

2.05 “Youth Mental Health First Aid” is a course, certified by the National Council for Mental Wellbeing, that teaches how to identify, understand, and respond to signs of mental illnesses and substance use and provides the skills needed to reach out and

provide initial help and support to someone who may be developing or experiencing a mental health issue or substance use problem or experiencing a crisis.

3.00 SCHOOL SAFETY AUDIT, EMERGENCY RESPONSE DRILLS, AND FLOOR PLANS

3.01 A public school district shall conduct a comprehensive school safety audit every three (3) years to assess the safety, security, accessibility, and emergency preparedness of district buildings and grounds in collaboration with local law enforcement, fire, and emergency management officials.

3.01.1 A comprehensive school safety audit shall be conducted by more than one (1) individual, including at least one (1) individual who is not assigned to the facility being audited, if the audit is conducted by district personnel.

3.01.2 A comprehensive school safety audit shall include without limitation an audit of the following:

3.01.2.1 Safety and security of the site and exterior of buildings;

3.01.2.2 Access control;

3.01.2.3 Safety and security of the interior of buildings;

3.01.2.4 Monitoring and surveillance, including without limitation type and extent;

3.01.2.5 Communication and information security;

3.01.2.6 Review of emergency operation plans; and

3.01.2.7 School climate and culture.

3.01.3 The initial comprehensive school safety audit shall be conducted by August 1, 2024.

3.01.4 The superintendent shall submit written verification, as required by the Division, that the audit has been completed and conducted in collaboration with local law enforcement and emergency management officials.

3.02 A public school district shall conduct an annual lockdown drill for a possible threat on campus at each school in the public school district.

3.02.1 As part of the public school district's planning for lockdown drills, the public school district shall:

3.02.1.1 Assess the plan and ability of the public school district or open-enrollment charter school to prevent and respond to a threat on campus;

- 3.02.1.2 Identify the roles and responsibilities of each individual when an emergency occurs;
- 3.02.1.3 Discuss the logistics of responding to an emergency on the school campus;
- 3.02.1.4 Identify areas in which the emergency operation plan of the school may require modification, if necessary; and
- 3.02.1.5 Collaborate with local law enforcement and emergency management officials.
- 3.03 All public schools shall conduct tornado safety drills not less than three (3) times per year.
- 3.04 Public schools located in areas susceptible to earthquakes shall conduct earthquake safety drills.
- 3.05 All public schools shall conduct one fire drill each month during the school year.
- 3.06 Emergency response drills may be conducted during the instructional day or during noninstructional time periods as determined by the school district.
- 3.07 The superintendent, or designee, shall submit data required by the Division during the appropriate cycle to verify that drills were completed and submit written verification, as required by the Division, that collaboration with local law enforcement and emergency management officials occurred when required.
- 3.08 A public school district shall provide current floor plans and pertinent emergency contact information to appropriate first responders for each school in the district.
 - 3.08.1 Public school district administration shall provide updated information annually and when substantial building modifications or changes are made.
 - 3.08.2 Information provided under this subsection is not a public record and is not available for public inspection.
 - 3.08.3 The superintendent shall submit written verification, as required by the Division, that the floor plans and information were provided to appropriate first responders.

4.00 SCHOOL RESOURCE OFFICERS

- 4.01 A school district board of directors, or entity authorized to act on behalf of an open-enrollment public charter school, that accepts a school resource officer shall enter into a memorandum of understanding (MOU) with the local law enforcement agency with jurisdiction, or adopt policies and procedures if the school district has

an institutional law enforcement officer as described by Ark. Code Ann. 6-13-1701 et seq., that governs the school resource officer.

4.01.1 The MOU shall be based on the model MOU created by the Division and the Arkansas Center for School Safety, and include without limitation:

- 4.01.1.1 The financial responsibilities of each party;
- 4.01.1.2 The chain of command;
- 4.01.1.3 The process for the selection of school resource officers;
- 4.01.1.4 The process for the evaluation of school resource officers;
- 4.01.1.5 The training requirements for school resource officers; and
- 4.01.1.6 The roles and responsibilities of school resource officers, including without limitation:
 - 4.01.1.6.1 Clarification of the school resource officer's involvement in student discipline;
 - 4.01.1.6.2 The use of physical restraints or chemical sprays;
 - 4.01.1.6.3 The use of firearms on the public school campus or at school-sponsored events; and
 - 4.01.1.6.4 Making arrests on the public school campus or at school-sponsored events.

4.02 A school resource officer assigned to a public school or open-enrollment public charter school campus during the instructional day or employed by a public school district shall obtain the following:

4.02.1 A forty-hour basic school resource officer training program developed and provided, or approved, by the Arkansas Center for School Safety, within eighteen (18) months of being assigned or employed by the public school district;

4.02.2 Certification in Youth Mental Health First Aid, within eighteen (18) months of being assigned or employed by the public school district, which shall be renewed every four (4) years;

4.02.3 A sixteen-hour school resource officer refresher training developed and provided, or approved, by Arkansas Center for School Safety, within five (5) years of receiving the initial basic school resource officer training described in 5.02.1, and every five (5) years thereafter; and

- 4.02.4 Twelve (12) hours of public school-specific continuing education developed and provided, or approved, by the Arkansas Center for School Safety, annually.
- 4.02.5 The forty-hour basic school resource officer training required by 5.02.1 shall address, without limitation, the roles and responsibilities of school resource officers in public schools, laws that are specific to public schools and students in public schools, and adolescent behavior and development.
- 4.02.6 The Youth Mental Health First Aid certification required by 5.02.2 and the school resource officer refresher training required by 5.02.3 shall count towards the twelve (12) hours of public school-specific continuing education required by 5.02.4 for the years during which those trainings are completed.
- 4.02.7 A school resource officer who is assigned by a public school district for only extracurricular activities is exempt from these training requirements.
- 4.03 A public school district superintendent and public school principal who accept a school resource officer or employ an institutional law officer as defined by Ark. Code Ann. § 6-13-1701 shall complete a one-hour training developed and provided, or approved, by the Arkansas Center for School Safety, within nine (9) months of accepting or employing the school resource officer.
- 4.04 Public school district personnel directly responsible for supervising a school resource officer shall complete a one-hour school resource officer roles and responsibilities training developed and provided, or approved, by the Arkansas Center for School Safety, within one (1) year of accepting or employing the school resource officer and every two (2) years thereafter.
- 4.05 Training received by a licensed educator under 4.03 and 4.04 may count towards the professional development required for renewal of an educator's license by the Division's Rules Governing Professional Development.
- 4.06 The Arkansas Center for School Safety shall monitor compliance with the continuing education and training requirements required by law and these rules.
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- 4.06.1 A public school district that accepts a school resource officer or employs an institutional law officer shall comply with requests for information from the Arkansas Center for School Safety or Division for purposes of ensuring compliance with applicable law or rules.
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- 4.06.2 A school resource officer who fails to complete any training required under this section shall be unable to serve as a school resource officer until the training required is complete.
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- 4.06.3 A school resource officer shall not be assigned to a public school district in which the superintendent, principal, or supervising personnel, have not completed the training required.

5.00 DUTY TO REPORT

5.01 Whenever the principal or other person in charge of a public school has personal knowledge or has received information leading to a reasonable belief that any person has committed or has threatened to commit an act of violence or any crime involving a deadly weapon on school property or while under school supervision, the principal or person in charge shall immediately report the incident or threat to the superintendent of the school district and the appropriate local law enforcement agency.

5.01.1 The report shall be by telephone or in person immediately after the incident or threat and shall be followed by a written report within three (3) business days.

5.01.2 The principal shall notify any school employee or other person who initially reported the incident that a report has been made to the appropriate law enforcement agency.

5.01.3 The superintendent, or his or her designee, shall notify the local school district board of directors of any report made to law enforcement pursuant to these rules.

5.02 Upon receipt of a report from the prosecuting attorney, required to be provided within thirty (30) calendar days after receipt of the file, the principal shall notify any school employee or any other person who initially reported the incident that a report has been received from the prosecuting attorney.

5.03 Any person who purposely fails to make a report as required by Ark. Code Ann. § 6-17-113 and these rules shall be guilty of a Class C misdemeanor.

5.03.1 Purposely failing to report a violent act requires proof that:

5.03.1.1 The person had personal knowledge that an act of violence or any crime involving a deadly weapon has been committed or threatened;

5.03.1.2 A reasonable person would have reported the act or threat; and

5.03.1.3 The person who failed to report had a conscious object to disregard his obligation to report.

DRAFT

This draft is a working document. All information contained herein is subject to change and may differ substantially from the final document. The information contained in this document should not be considered the position or views of the agency or the Governor.

SUMMARY OF PROPOSED NEW RULES **GOVERNING SCHOOL SAFETY**

These rules govern the requirements for school districts that accept school resource officers (SROs), the training requirements for SROs and school staff, and the responsibility of principals to report student criminal acts. The proposed new rules incorporate the provisions of Acts 622 and 648 of 2021.

Key Points:

- Act 622 requires school districts that have an SRO to have an MOU based on the model created by DESE. The requirements of the MOU are included in these rules.
- Act 622 further requires an officer serving as an SRO and the administration in the building where the SRO is located, to have specific and on-going training to understand the role and responsibilities of an SRO. These training requirements are specified in the rules.
- Act 648 requires school districts to conduct comprehensive school safety audits every three years. These rules identify what a comprehensive audit includes and how compliance with all requirements will be verified.