

# ARKANSAS REGISTER

## Proposed Rule Cover Sheet



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Name of Department State Board of Election Commissioners

Agency or Division Name \_\_\_\_\_

Other Subdivision or Department, If Applicable \_\_\_\_\_

Previous Agency Name, If Applicable \_\_\_\_\_

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Name of Rule Rules for Poll Work and County Clerk Training

Newspaper Name Arkansas Democrate Gazzette

Date of Publishing April 17, 18, and 19 of 2020

Final Date for Public Comment May 18, 2020 at 4:30 p.m.

Location and Time of Public Meeting If necessary, May 27, 2020 at 1:30 p.m.

DRAFT – MARK UP

Agency #108.00

**RULES  
FOR  
POLL WORKER & COUNTY CLERK  
TRAINING**

(Effective March 17, 2002; Revised ~~December 29, 2015~~\_\_\_\_)



State Board of Election Commissioners  
501 Woodlane, Suite 401N  
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## Scope of Rules

These rules will set forth the methods for coordinating training on early voting and election day procedures for poll workers and county clerks in the 75 counties in the state. These rules are in addition to, and not a substitute for, the laws of the State of Arkansas.

## § 200 Definitions

- (a) Election Official – a person who is a member of the county board of election commissioners, a person who performs election coordinator duties, a person who is a poll worker designated by a county board of election commissioners to be an election clerk, election judge, or election sheriff, or a deputy county clerk or a person assigned by a county clerk to conduct early voting.<sup>1</sup>
- (b) Polling Site – a location selected by the county board of election commissioners where votes are cast.<sup>2</sup>
- (c) Poll Worker – an election official designated by the county board of election commissioners to be an election clerk, election judge, or election sheriff at a polling site.
- (d) Precinct – a geographical area the boundaries of which are determined by a county board of election commissioners in order to facilitate voting by the registered voters from that geographical area.
- (e) Primary Election – any election held to select the nominees of a political party for election at any general or special election in this state.<sup>3</sup>

## § 201 Qualifications of Election Officials Designated as Poll Workers

The qualifications<sup>4</sup> determined by the General Assembly<sup>5</sup> of an election official designated by the county board of election commissioners to serve as a poll worker are as follows:

- 1) Must be a qualified elector of this state;
- 2) Must be able to read and write the English language;
- 3) Must be a resident of ~~the~~ precinct permitted to voter at the polling site in which he or she serves at the time of his or her appointment, unless the county board determines unanimously that it is impossible to obtain qualified poll workers from the precinct, in which case, the poll worker shall be a qualified county resident;
- 4) Must not have been found guilty or pled guilty or nolo contendere to the violation of any election law of this state;
- 5) Must not be a paid employee of any political party;
- 6) Must not be a paid employee of any person running for any office on the county's ballot;

<sup>1</sup> A.C.A. § 7-1-101 as amended by Act 1042 of 2015

<sup>2</sup> A.C.A. § 7-1-101

<sup>3</sup> A.C.A. § 7-1-101

<sup>4</sup> A.C.A. § 7-4-109

<sup>5</sup> Art 3, § 10 of the Arkansas Constitution, as amended by Amendment 85

- 7) Must not be a candidate for any office to be filled at an election while serving as a poll worker;  
~~and~~
- 8) Must not be married to or related within the second degree of consanguinity to any candidate running for office in the current election if objection to the service is made to the county board of election commissioners within ten (10) calendar days after the posting of the list of officials;~~;~~
- ~~8) Must not be the spouse of a member of the county board of election commissioners if objection to the service is made to the county board of election commissioners within ten (10) calendar days after the posting of the list of officials;~~
- 9) And Must not be the chairman or the spouse of a chairman of a county political party if objection to the service is made to the county board of election commissioners within ten (10) calendar days after the posting of the list of officials.

## § 202 Required Training

Each county board of election commissioners shall:

- 1) Designate at least two (2) qualified electors of the county to attend training conducted by the State Board of Election Commissioners before the regularly scheduled preferential primary election for the purpose of being certified by the State Board as poll worker trainers for the county. Each designee shall attend either a comprehensive training program conducted by the State Board of Election Commissioners before the regularly scheduled preferential primary election or an advanced training program conducted by the State Board of Election Commissioners after each regular legislative session. Any designee who has not served as a certified poll worker trainer during the previous two (2) preferential primary and general elections and previously attended the comprehensive training program conducted by the State Board of Election Commissioners must attend the comprehensive training program;
- 2) Ensure that all poll workers at each preferential primary election polling site for a regularly scheduled election attended election training conducted locally by State Board-certified trainers and coordinated by the State Board prior to each regularly scheduled preferential primary election;<sup>6</sup> and
- 3) For all elections following the regularly scheduled primary election, Ensure-ensure that at least one (1) each poll worker at each polling site has attended election training coordinated by the State Board within twelve (12) months prior to the election in which they are serving any regularly scheduled election.<sup>7</sup>

## § 203 Certification and Compensation of Poll Worker Trainers

Upon successful completion of training conducted by the State Board of Election Commissioners:

<sup>6</sup> A.C.A. § ~~7-4-107(b)(2);~~ 7-4-109(e)(1)

<sup>7</sup> A.C.A. § 7-4-107(b)(2)(C) as amended by Act 966 of 2019.

- 1) Certification, valid for a period of two (2) years, shall be issued by the State Board to each designated trainee who successfully completes the training program;
- 2) A maximum of two (2) certified trainers per county are eligible to receive \$100 each, plus mileage reimbursement at the rate established for state employees by state travel regulations;
- 3) The two (2) certified trainers per county are eligible to receive an additional \$50 each per training session up to a maximum of two (2) sessions each for conducting poll worker training locally before the preferential primary election; and
- 4) Certified trainers' compensation will be paid by the State Board to the County Treasurer upon receipt of the reporting form approved and provided by the State Board to the county for that purpose.

Certification and compensation of additional county trainers will be considered by the State Board on a case by case basis based upon need and availability of sufficient resources and funding. The compensation of the certified trainers for more than two training sessions will also be considered by the State Board on a case by case basis based upon need and availability of sufficient resources and funding.

Request for additional certified trainers or compensation for additional training sessions in excess of the limitation established in this section must be made in writing and must describe the facts and circumstances that make the additional personnel and funding necessary for the effective training of county trainers.

#### **§ 204 Compensation for Poll Worker Training Attendance**

A poll worker who attends training conducted by a State Board-certified poll worker trainer and who works the preferential primary election immediately following the training is eligible to receive a maximum \$25 additional one-time payment.<sup>8</sup>

A county is eligible to receive compensation for poll worker training attendance up to a maximum of six (6) eligible poll workers per precinct per polling site per preferential primary election.

Poll worker compensation will be paid by the State Board to the County Treasurer upon receipt of suitable supporting documentation from the county, as determined by the State Board.

#### **§ 205 Required Training for County Clerks**

A county clerk or his or her designee shall:

Attend training for poll worker trainers conducted by the State Board of Election Commissioners before the regularly scheduled preferential primary election. Each county clerk or designee shall attend either a comprehensive training program conducted by the State Board of Election Commissioners before the regularly scheduled preferential primary election or an advanced

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<sup>8</sup> A.C.A. § 7-4-109(e)(2)

training program conducted by the State Board of Election Commissioners ~~after each regular legislative session.~~

Advanced training will be made available if the Director of the State Board determines that, based on the amount of changes in law and procedure from the previous election cycle, an advanced training program is appropriate for experienced County Clerks. Advanced trainings are to only be utilized for clerks or designees who are unable to attend the comprehensive training and may be conducted remotely. Advanced trainings may not necessarily include a detailed review of all basic laws and procedures which are unchanged from the previous two election cycles but will address all aspects of the duties of the county clerk's office in conducting an election.

Any county clerk or designee who has not served as an election official during the previous two (2) preferential primary and general elections and previously attended the comprehensive training program conducted by the State Board of Election Commissioners must attend the comprehensive training program.

County clerks or clerk designees who attend training under this section are eligible to receive mileage reimbursement at the rate established for state employees by state travel regulations and are not eligible to receive any additional compensation; and

Any reimbursement will be paid by the State Board to the County Treasurer upon receipt of the reporting form approved and provided by the State Board to the county for that purpose.

## **§ 206 Noncompliance**

The State Board may withhold funding for poll worker and county clerk training attendance from any county that fails to comply with the rules and guidelines developed by the State Board for the administration of poll worker training, until all requirements are met to the satisfaction of the State Board.<sup>9</sup>

## **§ 207 Training Materials**

The State Board of Election Commissioners will provide training materials for local poll worker training to each of the seventy-five (75) counties.

Poll worker training shall be conducted only by State Board-certified trainers. Trainers are required to use—using—materials provided by the State Board. This requirement includes the presentation of all multi-media provided by the State Board.

Any exception to the requirements of this section must be by prior written request to the State Board with prior written approval by the State Board. Approval by the State Board is not required for materials related to voting system training or supplemental procedures not addressed by materials provided by the State Board.

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<sup>9</sup> A.C.A. § 7-7-201(b)(3)



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

DEPARTMENT/AGENCY State Board of Election Commissioners

DIVISION \_\_\_\_\_

DIVISION DIRECTOR Daniel Shults

CONTACT PERSON Chris Madison

ADDRESS 501 N. Woodlane Street, Ste. 401 N., Little Rock, AR 72201

PHONE NO. 501-682-1834 FAX NO. 501-682-1782

E-MAIL chris.madison@arkansas.gov

NAME OF PRESENTER AT COMMITTEE MEETING Chris Madison

PRESENTER E-MAIL SAA

**INSTRUCTIONS**

- A. Please make copies of this form for future use.
- B. Please answer each question **completely** using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Jessica C. Sutton  
Administrative Rules Review Section  
Arkansas Legislative Council  
Bureau of Legislative Research One  
Capitol Mall, 5<sup>th</sup> Floor  
Little Rock, AR 72201

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- 1. What is the short title of this rule?  
**Rules for Poll Worker & County Clerk Training**
- 2. What is the subject of the proposed rule?  
**Describes the process for poll worker and county clerk training.**
- 3. Is this rule required to comply with a federal statute, rule, or regulation?  
**NO**  
If yes, please provide the federal rule, regulation, and/or statute citation.
- 4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?  
**NO**  
If yes, what is the effective date of the emergency rule?  
When does the emergency rule expire?



Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act?

N/A

5. Is this a new rule?

NO

If yes, please provide a brief summary explaining the regulation.

N/A

Does this repeal an existing rule?

NO

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

N/A

Is this an amendment to an existing rule?

YES

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled “mark-up.”**

**See attached Mark-up and Clean Copies of Amended Rule**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation.

**§ 7-4-101(f)(3) & (f)(11).**

7. What is the purpose of this proposed rule? Why is it necessary?

The SBEC is proposing this amendment in order to bring this existing rule in to line with statutory changes made by the 2019 General Assembly. The amendment also clarifies the application of existing law and makes some minor policy changes.

First, the amendment incorporates changes in law regarding the qualifications of a poll workers into the rule. Under Act 258 of 2019, any person has the power to disqualify an election official who is the spouse of a county board of election commission member or is a chairman or spouse of the chairman of a county political party if that person files an objection within 10 days of the posting of the required notice identifying election officials.

Second, the amendment incorporates changes in law regarding all poll workers to have been trained within 12 months of an election in which they are serving. See, Act 966 of 2019.

Third, the amendment clarifies the language which governs the residency requirement placed on poll workers. Under existing law, a poll worker must be a resident of the precinct in which he or she serves unless this requirement is waived by a unanimous vote of the election commission. The amendment clarifies the existing language to make clear that when more than one precinct is assigned to vote at a single polling site or vote center, a

poll worker is qualified to serve if they reside in one of the multiple precincts eligible to vote in that poll. This change is a clarification, not a substantive change, and is intended to update the language of the rule to reflect modern voting practices and current law. Fourth, the amendment provides a legal mechanism for a county to be reimbursed for its certified trainers conducting more than two (2) trainings. The current rule caps the county's reimbursement at two trainings per certified trainer. The current law allows a county to request a waiver to be reimbursed for more than two certified trainers but not the number of trainings a single trainer can be compensated for.

This amendment is principally designed to apply in large counties that cannot logistically provide all the poll workers required training in only two or four sessions. Effective training requires a county to limit the number of poll workers present and is most effective when both trainers work as a team. In counties with over 500 poll workers, the county is required to conduct substantially more training sessions than it is currently reimbursed. In addition, the larger counties often have individuals who have experts in this area making it better policy for the county to have the two experienced trainers conduct all the county's sessions rather than have the county appoint more than two trainers under the current rule. The amendment will require that counties file a written request in advance which explains why the county needs to conduct more than the default number of trainings or certified training personnel. This change comes at the request of larger counties which currently conduct these trainings out of necessity at their own expense. The language is designed to allow the SBEC to remedy this inequity while maintaining discretion to ensure only counties who legitimately need additional trainings are able to access additional state funds.

Fifth, the amendment provides a definition for the Advanced Training Program and sets limitations on when an election official is able to satisfy his or her obligation to receive SBEC training remotely while preserving this concept for experienced personnel under limited circumstances. This concept is ill-defined under the existing rule and the amendment more clearly establishes when and how the State Board may provide advanced training, and who is eligible to participate in such a program.

Lastly, the amendment clarifies that the existing requirement that certified trainers use State Board prepared materials for local poll worker training sessions a requirement that the county use the multi-media provided by the State Board.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

**[www.arkansas.gov/sbec/rules](http://www.arkansas.gov/sbec/rules)**

9. Will a public hearing be held on this proposed rule?

**NO, unless 25 people, a governmental agency or subdivision or an association with at least 25 members request an oral hearing.**

If yes, please complete the following:

If so, then:

Date: If Requested, End of May, May 27, 2020

Time: 1:30 p.m.

Place: 501 Woodlane St., Ste. 401 N., Little Rock, AR 72201

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

**May 18, 2020**

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

**August 1, 2020**

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice.

**See Attached Notice and Proof of Publication**

13. Please provide proof of filing the rule with the Secretary of State as required pursuant to Ark. Code Ann. § 25-15-204(e).

**See Attached Email and Form of submittal to Secretary of State**

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

**State Board is unaware of any groups or associations that may comment on this rule amendment.**

## **FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** State Board of Election Commissioners

**DIVISION** \_\_\_\_\_

**PERSON COMPLETING THIS STATEMENT** Chris Madison

**TELEPHONE:** 501-682-1447

**FAX:** 501-682-1782

**EMAIL:** chris.madison@arkansas.gov

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

**SHORT TITLE OF THIS RULE:** Rules for Poll Worker & County Clerk Training

1. Does this proposed, amended, or repealed rule have a financial impact?

**Yes**

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**

3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered?

**Yes**

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

**N/A**

(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:

**N/A**

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

**Current Fiscal Year**

**Next Fiscal Year**

|                  |       |                  |       |
|------------------|-------|------------------|-------|
| General Revenue  | _____ | General Revenue  | _____ |
| Federal Funds    | _____ | Federal Funds    | _____ |
| Cash Funds       | _____ | Cash Funds       | _____ |
| Special Revenue  | _____ | Special Revenue  | _____ |
| Other (Identify) | _____ | Other (Identify) | _____ |
| Total:           | _____ | Total:           | _____ |

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

**Current Fiscal Year**

**Next Fiscal Year**

|                  |       |                  |       |
|------------------|-------|------------------|-------|
| General Revenue  | _____ | General Revenue  | _____ |
| Federal Funds    | _____ | Federal Funds    | _____ |
| Cash Funds       | _____ | Cash Funds       | _____ |
| Special Revenue  | _____ | Special Revenue  | _____ |
| Other (Identify) | _____ | Other (Identify) | _____ |
| Total:           | _____ | Total:           | _____ |

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**

\$ \$0

**Next Fiscal Year**

\$ \$0

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**

\$ 3,300

**Next Fiscal Year**

\$0

The SBEC is legally required to coordinate the training of poll workers in Arkansas. It does this by certifying at least two certified poll worker trainers in each county, which are then responsible for conducting training for their county's poll workers. By rule, the trainers are entitled to a 50-dollar payment for each training they conduct. A training is generally around 4 hours in length. The current rule caps the number of training sessions which a trainer can be compensated for at two sessions. A county can apply for a waiver to certify additional trainers but there is no provision under the current rule to allow a trainer to be paid for more than two training sessions. The result is, in a large county that uses their most experienced certified trainers, they will have to make up the cost difference or the trainers will not be compensated for the additional training sessions.

Under this proposed revision to the rule, the SBEC would have the discretion to allow certified trainers in a large county to be compensated for more than two training sessions, if the county files a written request explaining why the additional training sessions are justified. The SBEC calculates that, based on poll workers in the 2018 primary, if every county with more than 110 poll workers were to request additional funding pursuant to this amendment, the additional cost would be no more than \$3,300 every two years.

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?

**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:

**N/A**

- (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.

# STATE BOARD OF ELECTION COMMISSIONERS

501 Woodlane Street, Suite 122S  
Little Rock, Arkansas 72201  
(501) 682-1834 or (800) 411-6996

**Secretary of State**  
**John Thurston**  
Chairman

**Sharon Brooks**  
**Bilenda Harris-Ritter**  
**William Luther**  
**Charles Roberts**  
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Commissioners



**Daniel J. Shults**  
Director

**Chris Madison**  
Legal Counsel

**Jon Davidson**  
Educational Services Manager

**Tena Arnold**  
Business Operations Manager

## Summary of the 2019/2020 Amendment to the RULES FOR POLL WORKER AND COUNTY CLERK TRAINING

The State Board of Election Commissioners met on August 19, 2019 and approved changes to the “Rules for Poll Worker and County Clerk Training.”

The primary purpose of these changes is to bring the rule into compliance with changes in Arkansas law made in the 2019 General Assembly. One such change allows any person to disqualify a poll worker who is the spouse of a county election commissioner, or the chairman or spouse of a chairman of a county political party, if an objection is filed within 10 days of posting the election officials’ list in the county clerk’s office. Act 258 of 2019. This amendment updates the section governing the qualifications of poll workers to reflect these changes. The other legislative change requiring amendment of the rule is the requirement that all poll workers be trained within 12 months of any election in which they serve. Act 966 of 2019.

Because the rule was being revisited, the SBEC took the opportunity to clarify a few existing provisions within the rule. The first of these is an update of the language articulating the requirement that a poll worker must reside in the precinct they are serving. It clarifies how these requirements apply to vote centers or polling sites serving multiple precincts. This amendment is only a clarification and does not constitute a substantive policy change.

The second update clarifies the existing concept of an “Advanced Training” by adding an explanation of what an Advanced Training is. It establishes limits on when an Advanced Training may be offered and clarifies who is eligible to attend such a training. This preserves the concept of an Advanced Training which is useful when an experienced certified trainer is unable to attend SBEC training in a timely manner. Advanced Trainings have been used in the past to train experienced trainers when a special election is called prior to the primary. This clarification continues allowing experienced officials to receive training remotely. It ensures officials are eligible to conduct the election in a timely manner and saves state resources. Further, the clarification continues ensuring a legal preference for in-person trainings which are generally more effective.



Thirdly, the amendment also further clarifies that counties are required to provide their poll workers with the materials provided by the SBEC including all multimedia training resources. This is not a substantive change, but it is intended to ensure that the counties show the PowerPoint and training videos the SBEC provides.

The final policy change is made at the request of large population counties that train a significant number of poll workers. The existing rule limits reimbursement to the county to only two trainers and only allows each trainer to conduct a maximum of two training sessions. The existing rule allowed the SBEC to wave the limitation on the number of trainers but not the number of training sessions for which the individual trainers could be compensated. This amendment permits the SBEC to wave the limitation on the number of training sessions for which the trainer may be reimbursed which will allow the county to use its best personnel to conduct the county's poll worker training with smaller groups of poll workers. The goal of these changes is to provide fairness regarding larger counties for which two training sessions is wholly insufficient and ensure the quality of the training by discouraging counties from attempting to train larger groups than is practical.

The amendment also establishes the procedural requirement that the county must request reimbursement for additional trainers or training sessions in writing explaining why the additional funding is justified.