

THE ARKANSAS COMMISSION OF PUBLIC SCHOOL
ACADEMIC FACILITIES AND TRANSPORTATION
EMERGENCY RULE GOVERNING THE
ACADEMIC FACILITIES CATASTROPHIC PROGRAM
May 3, 2005

1.00 REGULATORY AUTHORITY

- 1.01 These emergency rules are promulgated pursuant to Act 1327 and Act 2206 of the 85th Arkansas General Assembly and Ark. Code Ann. § 25-15-204.

2.00 PURPOSE

- 2.01 The purpose of these emergency rules is to establish the rules governing a program and process of providing state financial participation to a school district based on a school district's academic facilities wealth index for eligible catastrophic repair and new construction projects to supplement insurance or other public or private emergency assistance received by or payable to the school district.

3.00 DEFINITIONS

- 3.01 For purposes of these rules, terms 3.01.1-3.01.12 shall be as defined in § 1 of Act 2206 of the 85th Arkansas General Assembly:
- 3.01.1 Academic facility;
 - 3.01.2 Academic facilities wealth index;
 - 3.01.3 Average daily membership;
 - 3.01.4 Facility condition index;
 - 3.01.5 Immediate repair project;
 - 3.01.6 Local enhancements;
 - 3.01.7 Local resources;
 - 3.01.8 Maintenance, repair and renovations;
 - 3.01.9 Millage rate;
 - 3.01.10 New construction;
 - 3.01.11 Project;
 - 3.01.12 Space utilization;
 - 3.01.13 "Act of God or Violence" means an act, event, happening or occurrence due to natural or man made causes (whether a criminal act or otherwise) such as flood, tornado, fire, earthquake, explosion, or other disasters which could not have been prevented by reasonable maintenance, repair or renovation of an academic facility.; and
 - 3.01.14 "Catastrophic project" means a repair, renovation, or construction project necessary due to such great damage or destruction to an academic facility caused by and Act of God or Violence.

4.00 ACADEMIC FACILITIES CATASTROPHIC PROGRAM

- 4.01 A school district may apply for state financial participation to assist with a catastrophic project provided an academic facility in the district has been damaged due to an Act of God or violence that otherwise could not have been prevented by reasonable maintenance, repair or renovation of the academic facility.
- 4.02 In order to apply, a school district shall submit a written application on the form herein incorporated as Attachment A and shall provide the division with documented evidence of:
 - 4.02.1 The estimated cost of the project;
 - 4.02.2 The availability of insurance and any other public or private emergency assistance to pay for the project; and
 - 4.02.3 How the catastrophic project supports the prudent and resourceful expenditure of state funds and improves the school district's ability to deliver an adequate and equitable education to public school students in the district.
- 4.03 The division shall evaluate a school district's application for catastrophic assistance and may conduct an on-site inspection prior to making a decision on the application as it deems necessary.

5.00 APPLICATION PROCESS

- 5.01 Applications for catastrophic assistance may be made to the division beginning on Wednesday, May 4, 2005. A school district should apply within sixty (60) days of the event of damage occurring. However, the division may waive this requirement for good cause.
- 5.02 In order to qualify for state financial participation to assist with a catastrophic project, a school district shall submit to the Office of the Director of the Division of Public School Academic Facilities and Transportation, 501 Woodlane St., Suite 520S, Little Rock, Arkansas 72201, the following:
 - 5.02.1 A Catastrophic Program Application form (see Attachment "A");
 - 5.02.2 A notarized statement from the school district treasurer certifying that the amount of state assistance requested for the emergency project is not covered by insurance or other public or private emergency assistance received by or payable to the school district;
 - 5.02.3 A written estimate from a licensed architect, engineer or contractor of the cost to repair the damaged facilities; and

5.02.4 A written statement how the catastrophic project supports the prudent and resourceful expenditure of state funds and improves the school district's ability to deliver and adequate and equitable education to public school students in the district.

5.03 The application shall be submitted via first class mail return receipt requested or via stamped recognition of hand delivery during normal business hours.

6.00 DIVISION APPROVAL CRITERIA

6.01 The division's consideration and approval will be based on several factors, including but not limited to the following:

6.01.1 School district compliance with appropriate academic facility standards, including but not limited to, appropriate space utilization;

6.01.2 The amount and availability of insurance or other public or private emergency assistance;

6.01.3 The academic facilities wealth index of the school district;

6.01.4 The prudent and resourceful expenditure of state funds with regard to public school academic facilities; and

6.01.5 Whether the facility is considered an academic facility. For example, the division shall not consider for approval applications for the replacement or repair of administrative buildings, athletic fields, and other facilities not meeting the definition of an academic facility.

6.02 The division shall consider each application for state financial participation in a catastrophic project on a case-by-case basis, taking into account the funding for the catastrophic program.

7.00 DIVISION AND SCHOOL DISTRICT OBLIGATIONS

7.01 If a school district qualifies for state financial participation under these rules, the division shall, within thirty (30) calendar days of approval, certify the amount of the state financial participation to the Commission for oversight purposes and the Commission shall, within thirty (30) calendar days written notice of certification, certify the amount to the Arkansas Department of Education.

7.02 School districts shall track and account for the catastrophic funds received as state financial participation under these rules as restricted funds and shall account for the funds in accordance with provisions of law, including but not limited to, the Arkansas Educational Financial Accounting and Reporting Act of 2005, Ark. Code Ann. § 6-20-2201 et seq. and rules

established by the Arkansas State Board of Education and the Commission.

- 7.03 Approved school districts shall make every effort a catastrophic project to current academic facilities standards, including appropriate space utilization requirements, unless the division determines it is impractical to conform the catastrophic project to current standards.
 - 7.04 School districts shall use state financial participation funds in a catastrophic program to pay only for the cost of that portion of a catastrophic project that is not covered by insurance or other public or private emergency assistance received by or payable to the school district.
 - 7.05 School districts shall comply with all local, state and federal laws and rules related to construction, repair or renovation projects, including but not limited to, bidding laws and rules.
- 8.00 EMERGENCY
- 8.01 WHEREAS, the 85th Arkansas General Assembly enacted legislation in response to the matter of *Lake View School District No. 25, et al v. Mike Huckabee, et al* to create a program to provide state financial participation to school districts to help address immediate needs of school districts related to catastrophic damage or destruction to academic facilities caused by an act of God or violence; and, whereas, these needs may currently exist due to catastrophic damage caused by acts of God or violence; and, whereas, there currently is not a similar program to address these immediate needs caused by catastrophic damage or destruction of academic facilities, the Arkansas Commission of Public School Academic Facilities and Transportation finds imminent peril exists to the public health, safety and welfare to school children and staff; therefore, the Arkansas Commission of Public School Academic Facilities and Transportation promulgate this emergency rule pursuant to the authority of Ark. Code Ann. § 25-15-204.
- 9.00 EFFECTIVE DATE
- 9.01 These emergency rules shall become effective immediately upon approval by the Arkansas Commission of Public School Academic Facilities and Transportation.