

Revised 1-22-08

THE COMMISSION FOR ARKANSAS PUBLIC SCHOOL
ACADEMIC FACILITIES AND TRANSPORTATION
RULES GOVERNING COMMISSION APPEALS

1.00 REGULATORY AUTHORITY

1.01 These Rules shall be known as the Arkansas Commission for Public School Academic Facilities and Transportation (Commission) Rules Governing Commission Appeals.

1.02 These Rules are promulgated pursuant to Ark. Code Ann. §§ 6-20-2512, 6-20-2513, 6-21-814 and 25-15-201 *et seq.*

2.00 PURPOSE OF RULES

2.01 The purpose of these Rules is to implement the requirements of Ark. Code Ann. §§ 6-20-2513 and 6-21-814 and to provide for a method by which school districts may appeal decisions made by the Arkansas Division of Public School Academic Facilities and Transportation to the Commission (Division).

3.00 APPEAL PROCESS

3.01 Pursuant to Ark. Code Ann. §§ 6-20-2513 and 6-21-814, a school district may appeal any final determination of a Division decision made under the provisions of the Arkansas Public School Academic Facilities Funding Act, Ark. Code Ann. §6-20-2501 *et seq.*, or the Arkansas Public School Academic Facilities Program Act, Ark. Code Ann. § 6-21-801 *et seq.*, by following this process:

3.01.1 A school district may request in writing, and the Division shall provide, a written determination of any appealable issue by the Division. The school district must make its written request for the Division's determination within thirty (30) calendar days after being advised of the Division's decision.

3.01.2 After receipt of a written determination from the Division, the school district's written appeal must be received in the Office of the Director of the Division of Public School Academic Facilities and Transportation, 501 Woodlane Street, Suite 600, Little Rock, AR 72201, no later than 4:30 p.m. on the thirtieth calendar day from receipt of the Division's written determination.

3.01.3 The school district shall provide in clear express terms a detailed written explanation and evidence showing that the Division's decision is clearly erroneous or outside the legal authority vested in the Division.

3.01.4 The school district shall have the burden to establish in its written appeal submission a *prima facie* case establishing the basis of appeal as required in § 3.01.3.

3.01.5 The Commission, at its sole discretion, may grant a public hearing on the school district's appeal or consider without a public hearing the written information submitted to it by the school district.

3.01.6 Any appeal hearing shall be conducted pursuant to the procedures set forth in Section 4.00 of these Rules.

3.01.7 Provided the Commission determines the school district has established a *prima facie* case or the Commission *sua sponte* decides to hear an appeal, the Commission shall render a written decision to approve or deny the appeal within sixty (60) calendar days of the public or in camera hearing of the appeal by the Commission from the Division.

4.00 APPEAL HEARING PROCEDURE

4.01 The Division and the appealing district shall have up to fifteen (15) minutes each to present their cases-in-chief to the Commission. The Chair of the Commission, at his or her discretion, may grant additional time to either or both parties, if necessary.

4.02 Each party will have the opportunity, should it so choose, to make an opening statement. The opening statement shall be no longer than ten (10) minutes in length. The Division shall present its opening statement first followed by the appealing district. The Chair of the Commission may grant additional time if he or she deems it necessary.

4.03 After the parties' cases-in-chief have been presented, the appealing district shall have up to five (5) minutes to present a closing statement, if desired. The Chair of the Commission may grant additional time if he or she deems it necessary.

4.04 After the appealing district has made a closing statement or waived the opportunity for the same, the Division shall have up to five (5) minutes to

make its closing statement, if desired. The Chair of the Commission may grant additional time if he or she deems it necessary.

4.05 Members of the Commission shall then have the opportunity to ask questions of any party.

4.06 After asking any question that it wishes to ask of the parties, the Commission may deliberate, vote and then orally announce its decision.

4.07 Unless required by a specific time frame required in law or rule, the Commission may defer final action until a later time.

5.00 FINALITY OF COMMISSION DECISIONS

5.01 All decisions of the Commission resulting from a school district's appeal of a Division determination shall be final and shall not be subject to further appeal or request for rehearing to the Commission or petition for judicial review under the Arkansas Administrative Procedure Act, Ark. Code Ann. § 25-15-201 et.seq.

6.00 SUNSET PROVISION

6.01 Until these Rules become effective, all appeals to the Commission shall be governed by the appeal processes contained within the specific program Rules under which the school district is appealing (i.e., Partnership Program Rules, Catastrophic Program Rules, et cetera). At such time as these Rules become effective, all other appeal provisions contained within Rules promulgated by the Commission shall be sunsetted and will be of no further force or effect.