

**COMMISSION FOR ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES
AND TRANSPORTATION RULES GOVERNING
THE TEN (10) YEAR FACILITIES MASTER PLAN**

March 17, 2008

1.00 REGULATORY AUTHORITY

1.01 The Commission for Arkansas Public School Academic Facilities and Transportation's authority for promulgating these Rules is pursuant to pursuant to Ark. Code Ann. §§ 6-21-112 et seq. (Act 1327 of 2005), 6-21-801 et seq. (Act 1426 of 2005), 25-15-204 and Act 989 of 2007.

2.00 PURPOSE

2.01 The purpose of these Rules is to establish a program and process for establishing a format for districts to begin creating ten-year (10) facilities master plans in accordance with State legislation, in an ongoing effort to remediate deficiencies in academic facilities.

3.00 DEFINITIONS

3.01 For the purposes of these Rules, the following terms mean:

3.01.1 Academic facility – a building or space, including related areas such as the physical plant and grounds, where public school students receive instruction that is an integral part of an adequate education as described in Ark. Code Ann. § 6-20-2302.

3.01.1.1 A public school building or space, including related areas such as the physical plant and grounds, used for an extracurricular activity or an organized physical activity course as defined in Ark. Code Ann. § 6-16-137 shall not be considered an academic facility for the purposes of this rule to the extent that the building, space, or related area is used for extracurricular activities or organized physical activities courses, except for physical educational training and instruction under Ark. Code Ann. § 6-16-132;

3.01.1.2 The Division of Public School Academic Facilities and Transportation shall determine the extent to which a building, space, or related area is used for extracurricular activities or organized physical activities courses based on information supplied by the school district and, if necessary, on-site inspection.

- 3.01.1.3 Buildings or spaces, including related areas such as the physical plant and grounds, used for pre-kindergarten education shall not be considered academic facilities for purposes of these Rules; and
 - 3.01.1.4 District administration buildings and spaces, including related areas such as the physical plant and grounds, shall not be considered academic facilities for the purpose of these Rules.
- 3.01.2 Amended Facilities Master Plan - A revised Facilities Master Plan, submitted at any time during the ten-year cycle if a district has encountered one of the following conditions:
- 3.01.2.1 A major enrollment change; or
 - 3.01.2.2 A major disaster; or
 - 3.01.2.3 A major curriculum change; or
 - 3.01.2.4 An unforeseen occurrence.
 - 3.01.2.5 The format for submission will be as outlined in the most current Master Plan Guidelines.
- 3.01.3 Annexation – the joining of an affected school district or part of the school district with a receiving district under Ark. Code Ann. §§ 6-13-1401 through 6-13-1411.
- 3.01.4 Appendix – A shortened amendment to an approved Master Plan submitted if a district has begun or completed a self-funded project over which the Division has only review authority, but which was omitted from the Master Plan submittal. The format for submission will be as outlined in the most current Master Plan Guidelines.
- 3.01.5 Arkansas Facility Condition Index – The ARFCI is the established Facility Condition Index modified to give weighted values to the public educational facility needs identified in the 2004 facility assessment. It assists in prioritizing the school district campuses, on a statewide basis, with the greatest need.
- 3.01.6 Consolidation - the joining of two (2) or more school districts or parts of the districts to create a new single school district under Ark. Code Ann. §§ 6-13-1401 through 6-13-1411.
- 3.01.7 Custodial activities – routine and renovation cleaning activities related to daily operations and upkeep of a public school facility, including related supervisory and management activities.

- 3.01.8 Facility Condition Index - means that particular index obtained by dividing the presently existing condition costs, not including projected life-cycle costs, to bring a public school academic facility up to current codes by the facility's replacement cost, using data for such costs available in 2004.
- 3.01.9 Facilities distress status – a public school district determined by the Commission for Public School Academic Facilities and Transportation as being in academic facilities distress status.
- 3.01.10 Facilities master plan – a ten (10) year plan developed by a school district's strategy for maintaining, repairing, renovating, and improving through new construction or otherwise the school district's academic facilities and equipment, and other information required by law.
- 3.01.11 Foundation funding – shall have the same meaning as in Ark. Code Ann. § 6-20-2303.
- 3.01.12 Guidelines – Master Plan Guidelines are non-regulatory forms and instructions which are necessary to complete the submission process. The Guidelines are attached to these Rules as “Appendix A” and which are hereby incorporated into and made a part of these Rules as if fully set forth herein. They are found on the Division Web Site (www.arkansasfacilities.com).

The failure of a district to comply with the Guidelines does not mean that the district's submission will not be considered by the Division.

- 3.01.13 Local resources – any moneys generated by a school district for the purpose of funding the school district's share of financial participation in any academic facilities project for which a school district is eligible to receive state financial participation under priorities established by the Division of Public School Academic Facilities and Transportation. Also referred to as “raised funds” for the purpose of self funded projects.
- 3.01.14 Maintenance, repair, and renovation – any activity or improvement to a public school facility and, if necessary, related areas, such as the physical plant and grounds, that:
- 3.01.14.1 Maintains, conserves, or protects the state, condition or efficiency of the public school facility; or
 - 3.01.14.2 Brings the state, condition or efficiency of the public school facility up to the facility's original condition of completeness or efficiency.

- 3.01.15 New construction – any improvement to an academic facility and, if necessary, related areas, such as the physical plant and grounds, that brings the state of condition or efficiency of the academic facility to a state, condition or efficiency better than the academic facility’s original condition of completeness or efficiency. New construction also includes a new addition to an existing academic facility and construction of a new academic facility.
- 3.01.16 Project – an undertaking in which a school district engages in:
- 3.01.16.1 Maintenance, repair, and renovation activities with regard to an academic facility;
 - 3.01.16.2 New construction of an academic facility; or
 - 3.01.16.3 Any combination of maintenance, repair, and renovation activities with regard to an academic facility and new construction activities with regard to an academic facility.
- 3.01.17 Public School Facility – any public school building or space, including related areas such as the physical plant and grounds, that is used for any purpose, including, without limitation:
- 3.01.17.1 An extracurricular activity;
 - 3.01.17.2 An organized physical activity course defined in Ark. Code Ann. § 6-16-137;
 - 3.01.17.3 Pre-kindergarten education;
 - 3.01.17.4 District administration;
 - 3.01.17.5 Delivery of instruction to public school students that is an integral part of an adequate education as described in Ark. Code Ann. § 6-20-2302.
- 3.01.18 Public School Facilities Custodial, Maintenance, Repair and Renovation Manual - a document which contains uniform standards to direct custodial, maintenance, repair and renovation activities in public school facilities.
- 3.01.19 Public School Academic Facilities Manual – a document which contains uniform standards to guide the planning, design and construction of new academic facilities and additions to existing academic facilities, and which is hereby incorporated into and made a part of these Rules, as “Appendix B” to these Rules, as if the Manual was fully set forth herein.
- 3.01.19.1 Variances to the Arkansas Public School Academic Facilities Manual standards may be granted by the Division upon the presentation of evidence of existing conditions that makes compliance with

applicable standards impractical or unreasonably burdensome; or

3.01.19.2 Other conditions determined by the Division as warranting a variance from applicable public school academic facility standards.

3.01.20 Reconstitution – the reorganization of the administrative unit or the governing school board of a school district, including, but not limited to, the replacement or removal of a current superintendent, the removal or replacement of a current school board, or both.

3.01.21 School district – a geographic area with an elected board of directors that qualifies as a taxing unit for purposes of ad valorem property taxes under Title 26 of the Arkansas Code and which board conducts the daily affairs of public schools under the supervisory authority vested in it by the General Assembly and Title 6 of the Arkansas Code.

3.01.22 Self-Funded Project - means a project that is one hundred percent (100%) raised and funded by the school District, that shall be submitted to and approved by the Division upon compliance with state codes and standards. It will be submitted as an Appendix to the most current school district Master Plan.

4.00 ACADEMIC FACILITIES MASTER PLAN PROGRAM – PURPOSE

4.01 The purpose of the Academic Facilities Master Plan Program is:

4.01.1 Establish a mechanism for state supervision of school district activities impacting academic facilities and equipment;

4.01.2 Develop and continually update information critical to identifying academic facilities needs at the local level across the state; and

4.01.3 Allow the state to manage state financial participation in eligible local academic facilities projects.

4.02 The Academic Facilities Master Plan Program shall require each school district to:

4.02.1 Develop a ten (10) year district wide facilities master plan that shall be approved by the school district's board of directors for submission to and approval by the Division of Public School Academic Facilities and Transportation.; and

4.02.2 Base its facilities plan on the provisions of the Arkansas Public School Academic Facility Manual as adopted by the Commission for Public School Academic Facilities and Transportation and on

priorities indicated by statewide assessment, on priorities established by the Division's statewide facility needs priority list and other pertinent data specific to the needs of the school district with regard to academic facilities and equipment.

- 4.03 The district wide facilities master plan shall include, at a minimum, the following:
- 4.03.1 A schedule of custodial activities for each public school facility used by a school district;
 - 4.03.2 A schedule of maintenance, repair, and renovation for each academic public school facility used by a school district. The schedule shall distinguish between work associated with academic facilities and work associated with nonacademic public school facilities;
 - 4.03.3 Documentation that describes preventive maintenance work for each public school facility and identifies the completion date of the work. The documentation shall distinguish between preventative maintenance work associated with academic facilities and preventative maintenance work associated with nonacademic public facilities;
 - 4.03.4 Annual expenditures of the school district for all custodial, maintenance, repair, and renovation activities in the school district. The section of the facilities master plan pertaining to annual expenditures shall distinguish between expenditures associated with academic facilities and expenditures associated with non-academic public school facilities;
 - 4.03.5 A projected replacement schedule for major building systems in each public school facility;
 - 4.03.6 Identification of issues with regard to public school facility and program access to individuals with disabilities and, if necessary, proposed methods for improving access;
 - 4.03.7 Identification of committed projects within the district that includes, as applicable, a breakdown of the portion of each project between maintenance, repair, and renovation activities and new construction activities and the portion of a committed project pertaining to maintenance, repair and renovation activities shall identify, as applicable, maintenance, repair and renovation activities associated with academic facilities and maintenance,

repair and renovation activities associated with nonacademic public school facilities;

- 4.03.8 Annual expenditures of the school district for capital outlay;
- 4.03.9 Description of planned new construction projects with cost estimates for each public school facility, and needs prioritized as set forth in § 4.05 below; and
- 4.03.10 Narrative analysis of facility needs and response plans to address the overall district strategy of providing suitable, adequate and maintained public school facilities.

4.04 Districts shall submit a master plan to identify prioritized needs of the district as follows:

4.04.1 The district's Master Plan shall be submitted to the Division of Public School Academic Facilities and Transportation Division by February 1, of each even numbered year with the following needs to be addressed:

- 4.04.1.1 Immediate needs that the school district intends to address within three (3) years following the submission of the facilities master plan;
- 4.04.1.2 Short term needs that the school district intends to address within the four (4) to six (6) years following the submission of the facilities master plan; and
- 4.04.1.3 Long term needs that the school district intends to address within the seven (7) to ten (10) years following the submission of the facilities master plan.

4.05 In addition, as part of and at the same time of the submission of the facilities master plan, the school district shall provide evidence of the following:

- 4.05.1 Public comments from public hearings regarding the district's facilities master plan; which are to be held in the same locality as the school district.
- 4.05.2 Evidence of the school district's insurance coverage, including coverage amounts, types of coverage, identification of buildings covered, policy renewal dates, and all riders must be submitted to the Division no later than July 1 of each even numbered year.

- 4.05.3 Evidence of current student enrollment projections for a period of ten (10) years beginning with the first year of the master plan submission.

5.00 SUBMISSION PROCESS

Each school district in the state shall, in accordance with applicable state law, these Rules, and the guidelines published by the Division:

- 5.01 Submit the district's facilities master plan with a summary of comments made at public hearing to the Division by February 1 of each even numbered year.
- 5.02 Submit a report to the Division by February 1 of each odd-numbered year that includes:
 - 5.02.1 An automated update of all completed projects since the most recent submission;
 - 5.02.2 Current enrollment projections;
 - 5.02.3 New or continuing needs of the district with regard to academic facilities; and
 - 5.02.4 An accounting of any changes to the district's insurance coverage from the most recent submission.
- 5.03 A school district which has encountered one of the conditions listed in Section 3.01.2 of these Rules may submit an Amended Master Plan to the Division out of the regular even-numbered year cycle.

6.00 DIVISION OF PUBLIC SCHOOL ACADEMIC FACILITIES AND TRANSPORTATION RESPONSIBILITIES

- 6.01 Establish procedures (guidelines) and timelines for submittals of preliminary master plans, master plan outlines and master plans;
- 6.02 Hold consultation meetings with districts regarding preliminary master plans master plan, outlines and master plans to assure:
 - 6.02.1 Understanding of the general goals of the master plans and reports, and the criteria by which projects will be evaluated;
 - 6.02.2 Discuss ways the master plan may be structured to meet said goals;
 - 6.02.3 Assist districts in preparing accurate budgets and reasonable projects schedules; and
 - 6.02.4 Provide efficiency and productivity in the approval process as to both local academic facilities projects and state financial participation in local projects.

7.00 APPROVAL PROCESS

The Division shall:

- 7.01 Review and approve master plans no later than September 1 of each even numbered year and shall notify a district no later than May 1 of each odd-numbered year that the district's application for state financial participation for the upcoming biennium has been approved.

8.00 APPEAL PROCESS

- 8.01 A school district may appeal any determination of the Division to the Commission as follows:
- (i) A school district may request and the Division shall provide upon request a written determination of any appealable issue by the Division.
 - (ii) After receipt of a written determination from the Division, the school district shall file its written appeal within ten (10) calendar days via first class mail, return receipt requested, in the Office of the Director of the Division of Public School Academic Facilities and Transportation, 501 Woodlane St., Suite 600, Little Rock, Arkansas 72201, no later than 4:30 pm on the tenth calendar day from receipt of the Division's written determination. The Division shall within thirty (30) calendar days receipt of the appeal schedule the appeal for the Commission's consideration and determination.
 - (iii) The school district shall provide in clear express terms a detailed explanation and evidence showing that the Division's decision was clearly erroneous or outside the legal authority vested in the division.
 - (iv) The school district shall have the burden to establish a *prima facie* case, unless the Commission shall decide to hear the appeal *sua sponte*.
 - (v) The school district shall not be entitled to a hearing before the Commission unless the Commission should indicate in writing that it desires to hear the appeal and provides notice of the time and location of the hearing.
 - (vi) Any appeal hearing shall be conducted pursuant to the hearing policy established by the Commission.
 - (vii) 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 decision to approve or deny the appeal within sixty (60) calendar days of receipt of the appeal by the Commission from the division.

- 8.02 All decisions of the Commission regarding a school district's appeal of a Division determination shall be final and shall not be subject to any right of further appeal or request for rehearing to the Commission or subject to right to petition for judicial review under the Arkansas Administrative Procedures Act, §25-15-201 *et seq.*
- 8.03 Section 8.00 of these Rules shall remain effective until new rules governing Commission appeals have been promulgated. At that time, Section 8.00 of these Rules shall be sunsetted and will be of no further force or effect. All subsequent appeals shall be considered under the new Commission Rules Governing Commission Appeals, when such Rules are promulgated and become effective.