

Title 6. Education

Chapter III. Division of Public School Academic Facilities and Transportation, Department of Education

Subchapter A. Generally

Part 326. Rules Governing the Academic Facilities Catastrophic Program

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Effective: May 2, 2022"

"1.00 REGULATORY AUTHORITY

The Commission for Arkansas Public School Academic Facilities and Transportation has authority to promulgate these Rules under Ark. Code Ann. §§ 6-20-2501 et seq. and 25-15-201 et seq."

Subpart 1. Generally

6 CAR § 326-101. Purpose.

The purpose of this part is to establish 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 repairs and new construction projects to supplement insurance or other public or private emergency assistance received by or payable to the school district.

Authority. Arkansas Code § 6-20-2512.

6 CAR § 326-102. Definitions.

As used in this part:

- (1) "Academic facility" has the same meaning as in Arkansas Code § 6-20-

2502(2);

(2) "Academic facilities wealth index" has the same meaning as in Arkansas Code § 6-20-2502(1);

(3) "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 that could not have been prevented by reasonable maintenance, repair, or renovation of an academic facility;

(4) "Average daily membership" has the same meaning as in Arkansas Code § 6-20-2502(3);

(5) "Catastrophic project" means a repair, renovation, or new construction project necessary due to such great damage or destruction to an academic facility caused by an act of God or violence;

(6) "Commission" means the Commission for Arkansas Public School Academic Facilities and Transportation;

(7) "Division" means the Arkansas Division of Public School Academic Facilities and Transportation;

(8) "Local enhancements" means the portion of any maintenance, repair, or renovation project or new construction project that is designed to bring an academic facility or related areas such as the physical plant or grounds to a state or condition or efficiency that exceeds state academic facilities standards;

(9)(A) "Local resources" means any moneys lawfully 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.

(B) Also referred to as "raised funds" for the purpose of defining a self-funded project;

(10) "Maintenance, repair, and renovation" means any activity or improvement to an academic facility and, if necessary, related areas such as the physical plant and grounds that maintains, conserves, or protects the state of condition or efficiency of an

academic facility;

(11) "Millage rate" means the millage rate listed in the most recent tax ordinance approved by the county quorum court under the authority of Arkansas Code § 14-14-904;

(12)(A) "New construction" means 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 of condition or efficiency better than the academic facility's current condition of completeness or efficiency.

(B) "New construction" includes a new addition to an existing academic facility and construction of a new academic facility;

(13) "Project" means an undertaking in which a school district engages in:

(A) Maintenance, repair, and renovation activities with regard to an academic facility;

(B) New construction of an academic facility; or

(C) Any combination of maintenance, repair, and renovation activities with regard to an academic facility and new construction activities with regard to an academic facility; and

(14) "Space utilization" means the number of gross square feet per student in a public school academic facility adjusted for academic program, school enrollment, grade configuration, and type of public school in accordance with rules promulgated by the Commission for Arkansas Public School Academic Facilities and Transportation.

Authority. Arkansas Code § 6-20-2512.

6 CAR § 326-103. Academic Facilities Catastrophic Program application process.

(a)(1) 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.

(2) The school district must apply in writing to the Division of Public School Academic Facilities and Transportation within sixty (60) days of the event of damage occurring.

(3) However, the division may waive this requirement for good cause.

(b) As part of its application for state financial participation in a catastrophic project, the school district shall complete the Catastrophic Program Application form that is posted on the division's website, and shall provide the division with the completed form and the following documented evidence:

(1) The estimated cost of the project by a design or construction professional;

(2) The availability of insurance and any other public or private emergency assistance to pay for the project;

(3) 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;

(4) A written estimate from a licensed architect, engineer, or contractor of the cost to repair the damaged facilities;

(5) A written statement of 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; and

(6) Proof of full replacement value insurance to include a provision requiring code upgrades.

(c) 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.

(d) The application shall be submitted to the office of the Director of the Division of Public School Academic Facilities and Transportation:

(1) Via first class mail, return receipt requested;

(2) Via hand delivery during normal business hours, with the school district receiving a stamped recognition of the delivery; or

(3) Via electronic mail, with the school district receiving an electronic mail response confirming receipt (not including automatically generated delivery confirmations).

Authority. Arkansas Code § 6-20-2512.

6 CAR § 326-104. Division approval criteria.

(a) The Division of Public School Academic Facilities and Transportation consideration and approval will be based on several factors, including but not limited to the following:

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

(2) The amount of availability of insurance or other public or private emergency assistance;

(3) The academic facilities wealth index of the school district;

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

(5)(A) Whether the facility is considered an academic facility.

(B) 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; and

(6) Whether the insurance as required in 6 CAR § 326-103(b)(6) is in force at the time of the catastrophic loss.

(b) 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 Academic Facilities Catastrophic Program.

Authority. Arkansas Code § 6-20-2512.

6 CAR § 326-105. Division and school district obligations.

(a) If a school district qualifies for state financial participation under this part, the Division of Public School Academic Facilities and Transportation shall, within thirty (30) calendar days of approval, certify the amount of the state financial participation to the Commission for Arkansas Public School Academic Facilities and Transportation for oversight purposes and the commission shall, within thirty (30) calendar days of the receipt of the written notice of certification, certify the amount to the Department of Education.

(b) School districts shall track and account for the catastrophic funds received as state financial participation under this part 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 2004, Arkansas Code § 6-20-2201 et seq., and rules established by the Arkansas State Board of Education and the commission.

(c) Approved school districts shall make every effort to conform 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.

(d) School districts shall use state financial participation funds in an Academic Facilities 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.

(e) 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.

(f)(1) The amount of state financial participation shall not exceed the amount resulting from the application of the academic facilities wealth index to the cost necessary to bring the academic facility into compliance with the Arkansas Public School Academic Facility Manual, less any withholding or reduction imposed by the commission

under Arkansas Code § 6-21-114(d) for a school district's failure to comply with the commission's insurance requirements, including without limitation the failure to carry replacement cost coverage, if applicable, on all buildings and facilities.

(2) State financial participation for any approved catastrophic project will be calculated using the most current wealth index applicable to the school district at the time the application was approved.

Authority. Arkansas Code § 6-20-2512.

6 CAR § 326-106. Appeal process.

A school district may appeal any written determination of the Division of Public School Academic Facilities and Transportation in accordance with the Commission for Arkansas Public School Academic Facilities and Transportation Rules Governing Appeals from Determinations of the Division of Public School Academic Facilities and Transportation, 6 CAR pt. 320.

Authority. Arkansas Code § 6-20-2512.