COMMISSION FOR ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES AND TRANSPORTATION RULES GOVERNING THE ACADEMIC FACILITIES PARTNERSHIP PROGRAM – (EMERGENCY RULES)

~~January 2014~~ September 25, 2015

1.00 AUTHORITY

1.01 The Commission for Arkansas Public School Academic Facilities and Transportation authority for promulgating these Rules is pursuant to Ark. Code Ann. §6-21-114, 6-20-2507, 6-20-2512, 25-15-201 *et seq.*, Act 936 of 2015, and Act 962 of 2015.

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

2.00 PURPOSE

2.01 The purpose of these Rules is to establish a process whereby the Arkansas Division of Public School Academic Facilities and Transportation shall provide state financial participation based upon a school district's academic facilities wealth index in the form of cash payments to a school district for eligible new construction projects.

3.00 DEFINITIONS - For the purpose of these Rules, the following terms mean:

3.01 "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 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 these Rules 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;

3.01.2 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;

3.01.3 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;

3.01.4 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; and

3.01.5 Facilities owned and/or operated by education service cooperatives, leased facilities (other than facilities which are part of a lease purchase agreement), portable buildings, modular buildings and facilities owned by others but occupied by school districts are not considered academic school facilities for purposes of these Rules.

3.02 "Academic Facilities Partnership Program" – The process under which the Arkansas Division of Public School Academic Facilities and Transportation shall provide state financial participation based upon a school district's academic facilities wealth index in the form of cash payments to a school district for eligible new construction projects.

3.03 "Academic facilities wealth index" – A percentage derived from the following computations:

(1) Determine the value of one (1) mill per student in each school district as follows:

(a) Multiply the value of one (1) mill by the total assessed valuation of taxable real, personal, and utility property in the school district as shown by the applicable county assessment for the most recent year; and

(b) Divide the product from (1)(a) above by the greater of the prior year average daily membership of the school district or the prior three-year average of the school district's average daily membership;

(2) Determine student millage rankings by listing the computation under (1) above of this Section for each school district from students with the lowest value per mill to students with the highest value per mill;

(3) Allocate the student millage rankings into percentiles with the first percentile containing the one percent (1%) of students with the lowest value per mill and the one-hundredth percentile containing the one percent (1%) of students with the highest value per mill; and

(4) Divide the value of one (1) mill per student in each school district as computed under (1) above by the amount corresponding to the ninety-fifth percentile of the student millage rankings under (3) above.

(5) The percentage derived from the computation under (4) above is the academic facilities wealth index for a school district, which shall be computed annually and used to determine the amount of the school district's share of financial participation in a local academic facilities project eligible for state financial participation under priorities established by the Division of Public School Academic Facilities and Transportation.

3.04 "Add-ons" - Additional academic areas or spaces which are constructed as a part of or separate additions to an existing academic area or space, and which falls under the definition of "New Construction" contained in Section 3.19 of these Rules.

3.05 "Arkansas 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 A" to these Rules, as if the Manual was fully set forth herein. The Manual can also be accessed on the Division's website (www.arkansasfacilities.arkansas.gov).

3.06 "Alternative Project" - A project proposed by the Division, that will accomplish creating a safe, dry and healthy atmosphere and meet the suitability need of the school district or individual school facility and is in compliance with the state standards. The state financial participation for the alternative project will be determined in accordance with Sections 3.25, 3.33, 5.02 and 6.03 of these rules. The Division will coordinate the development of the alternative project with the school district.

3.07 Building Value – A percentage value reflecting the depreciated value of an academic facility with an assumed depreciation of two per cent (2%) per year. Building Value does not consider improvements that may have been made to the facility.

3.07.1 Building Value is calculated by multiplying two (2) times the age of the academic facility, and subtracting that product from one hundred (100) (Value = 100 – (2 x Age)). The output of this equation may be a positive or negative percentage.

3.07.2 For the purpose of this calculation, an academic facility's age is calculated as the difference between the master plan year and the year of the facility's construction completion.

3.07.3 When an academic facility has multiple additions constructed at different times, a Building Value shall be computed for each addition.

3.07.4 Building Value will be used to develop the Division's state-wide needs priority list per A.C.A. §6-21-112 (f) (18).

3.07.5 Districts are not required to replace an academic facility when the Building Value is at or below zero percent (0%).

3.08 Campus Value – A composite percentage value of depreciated Building Values that includes all of the academic facilities on a campus.

3.08.1 Campus value is calculated by multiplying the Building Value of each individual academic facility on a campus by the area in square feet of that individual facility, then adding together the products of that calculation for all academic facilities on the campus, and then dividing that sum by the overall area in square feet of all academic facilities on the campus.

3.08.2 In instances where multiple campuses are involved with a warm, safe, and dry project, a campus value may be computed using the same process for all the campuses involved with the project.

3.09 "Commission" - The Commission for Arkansas Public School Academic Facilities and Transportation.

3.10 "Configuration (Re-Configuration)" – The systematic grouping of grades as determined by the school district at any school(s) campus. Re-configuration is the process of changing the present school(s) configuration, by the school district, to align a different grade configuration. The configuration or re-configuration is determined by the school district.

3.11 "Consolidation/Annexation Project" –A new, complete school campus or one or more additions to existing campuses for the specific purpose of supporting a voluntary consolidation or annexation petition brought by two or more contiguous districts and approved by the Arkansas State Board of Education pursuant to Ark. Code Ann. §6-13-1401 et. seq. after March 1, 2010. Consolidation/annexation projects must fulfill the requirements of Section 5.05.4 herein.

3.12 "Construction Cost" – The actual cost of constructing a new construction project as defined in Section 3.19 of these Rules. It consists of all construction related costs, both direct and indirect, to include but not be limited to construction contract costs and costs associated with design, advertisement and reimbursable expenses.

3.13 "Conversion Project" – (1) A new construction project that converts existing academic or non-academic space into a missing academic core, special education or student dining component of the POR and the conversion project is part of an add-on project for which the district has applied for partnership assistance. In such conversions, any partnership assistance funding from the

state is limited to only that amount of square footage required by the suitability analysis for the add-on project subject to the requirements of Section 4.01 of these Rules. The component shall meet the POR specifications when converting or adding such a space to the district; or (2) A new construction project that converts existing academic or non-academic space into a missing academic core space only and is in compliance with the POR space requirements. For this type of conversion project, state partnership assistance funding shall only be allowed provided the district has no suitability square footage need and the project is limited to no more than the component number and square footage spaces required in Academic Core of the POR.

3.14 "Division" – The Arkansas Division of Public School Academic Facilities and Transportation.

3.15 "Facilities master plan" - A six-year plan developed by a school district that contains enrollment projections for ten (10) years from the date of the plan, the 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 as required by law.

3.16 "Facilities improvement plan" – An improvement plan developed by a school district for a public school or school district identified as being in academic facilities distress, or by a school district which has been notified by the Division of non-participation in the Academic Facilities Partnership Program by failing to apply for state funding for necessary facilities to meet adequacy requirements, that supplements the school district's facilities master plan by:

3.16.1 Identifying specific interventions and actions the public school or school district will undertake in order to correct deficient areas of practice with regard to custodial, maintenance, repair and renovation activities with regard to academic facilities in the school district; and

3.16.2 Describing how the school district will remedy those areas in which the school district is experiencing facilities distress, including the designation of the time period by which the school district will correct all deficiencies that placed the school district in facilities distress status.

3.17 "Local Resources" - 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. Also referred to as "raised funds" for the purpose of defining "Self-Funded Project."

3.18 "Maintenance, repair, and renovation" – 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 the academic facility.

3.19 "New Construction" – Any improvement to an academic facility and, if necessary, related areas such as the physical plant and grounds, that brings the state, 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. "New construction" includes a new addition to an existing facility and construction of a new academic facility.

3.19.1 No state financial participation will be provided for improvements that could be classified as maintenance, repair, and renovation, other than a total renovation project. That portion of a new construction project that consists of maintenance, repair, or renovation will not be considered in calculating state financial participation in a new construction project, nor in prioritization of a new construction project.

3.20 "New Facilities" - A new construction project which is neither an addition to, total renovation, or conversion of an existing facility; nor a project involving maintenance, renovation, or repair of an existing facility; but is a new addition to a school district's building inventory.

3.21 "Non-academic facility" – A building or space that is not used for the provision of student instruction that is an integral part of an adequate education as described in Ark. Code Ann. §6-20-2302. The term "non-academic facility" comprises, but is not limited to, those buildings, spaces and grounds described in Subsections 3.01.1, 3.01.3, 3.01.4 and 3.01.5 of these Rules, or any buildings, spaces or grounds that do not fit the definition of "Academic Facility" set forth in Section 3.01 of these Rules.

3.22 "Prioritization" - That methodology established by the Commission, and set forth in these Rules in Section 5.05, which provides a system of ranking new construction projects submitted for state financial participation in the Partnership Program, in order to comply with Ark. Code Ann. §6-20-2507 and the necessary and appropriate allocation of limited funding resources.

3.23 "Program of Requirements (POR)" – The requirements that each new construction project which is not a warm, safe, and dry (systems) project is required to adhere to as the established minimum adequate components, and total square footage required in a school construction project as otherwise permitted in Section 4.02 of these Rules for add-on projects and as set forth in the Arkansas Public School Academic Facilities Manual. The POR is hereby incorporated into and made a part of these Rules, as "Appendix B" to these Rules, as if the POR was fully set forth herein. The District shall submit PORs for any new construction project that is not a warm, safe, and dry (systems) project for the Division's review in accordance with Section 3.34 of these rules.

3.24 "Project" - An undertaking in which a school district engages in:

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

(b) New construction; 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.

3.25 Project Cost – A projected construction cost determined by the Division utilizing the specific project cost funding factors stipulated in Ark. Code Ann. §6-20-2509 and localized to regional cost centers in the state. It serves as the basis for the estimated state financial participation for partnership projects per square foot. The specific project cost funding factors, New Facilities Project Cost Funding Factor and Warm, Safe, and Dry (Systems) and Conversion Project Cost Funding Factor, are defined as set forth in Sections 3.25.1 and 3.25.2 of these Rules. Neither the New Facilities Funding Factor nor the Warm, Safe, and Dry (Systems) and Conversion Project Cost Funding Factor shall include land purchases, mold abatement or removal, environmental clean-up, supersite clean-up, or qualification for LEED or Green Globes certification pursuant to Section 10.0 of these Rules.

(i) The Project Cost for newly constructed academic facilities or additions for which a square foot cost would be applicable to all facets of the construction will be the lesser of either:

(a) The New Facilities Project Cost Funding Factor which shall be that factor established on a regional basis by the Division in effect as of May 1, 2009, and updated annually by the Division in compliance with Ark. Code Ann. §6-20-2509; plus the appropriate soft cost for demolition costs and/or asbestos abatement in the amount of one (1) percent of the Funding Factor for each category (however, the Funding Factor shall not increase to more than $175.00 per square foot without the approval of the Commission) multiplied by the project approved size in square feet; or

(b) The actual construction cost amount of the project.

(ii) The Project Cost for conversion projects or projects which are building systems or components thereof, not covered in Section 3.25(i) of these Rules (above), will be the lesser of either:

(a) The Warm Safe, and Dry (Systems) and Conversion Project Cost Funding Factor which shall be that factor established on a regional basis by the Division in effect as of May 1, 2009, and

updated annually by the Division in compliance with Ark. Code Ann. §6-20-2509; plus the appropriate soft cost for demolition costs and/or asbestos abatement in the amount of one (1) percent of the Funding Factor for each category multiplied by the approved unit of measure per project (however, the Funding Factor shall not increase to more than $175.00 per square foot without the approval of the Commission) multiplied by the project approved size in square feet; or

(b) The actual construction cost of the project.

(iii) In calculating the amount of state financial participation in a facilities project that includes a tornado shelter or designated reinforced area, the Division shall deduct from the project cost the total amount of grant funds received by the school district for the shelter or area.

3.25.1 New Facilities Project Cost Funding Factor – That factor, based upon grade level configuration of the public school academic facility and the proposed enrollment within the facility and regionalized to twelve (12) different areas within the state, which the Division will use to provide a funding amount for construction projects covered by Section 6.03(i) of these Rules on a square foot basis.

3.25.2 Warm, Safe, and Dry (Systems) and Conversion Project Cost Funding Factor - That factor, based upon the amount of square footage contained, the type of conversion of existing space to a different use or the type of item or system renovation regionalized to twelve (12) different areas within the state, which the Division will use to provide a funding amount for construction projects covered by Section 6.03(ii) of these Rules on a square foot basis.

3.26 "Project Funding Cycle" – A two (2) year cycle for which school districts' Partnership Projects submitted by a specified deadline in an even-numbered year are reviewed by the Division for state financial participation by May 1 of the succeeding odd-numbered year.

3.27 "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:

3.27.1 An extracurricular activity;

3.27.2 An organized physical activity course defined in Ark. Code Ann. §6-16-137;

3.27.3 Pre-kindergarten education;

3.27.4 District administration; or

3.27.5 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.

3.28 "Renovation Project" – A "warm, safe, and dry" (systems) new construction project addressing a facility system per Section 3.36.1 of these rules or addressing all building systems per Section 3.36.2 of these rules. To receive state financial participation, the project must be a "warm, safe, and dry" system or space replacement project.

3.29 "Resolution" – A written document voted upon and approved by at least a majority of a quorum of a school district's Board of Directors at a lawfully called meeting, which certifies the school district's dedication of local resources to meet the school district's share of financial participation in the new construction project.

3.30 "Schematic Drawing" – A diagram which fully illustrates all of the areas, spaces and dimensions of a new construction project. Schematic drawings shall include as a minimum: single line drawings with outside dimensions and overall gross square footage. For add-on or conversion projects the drawing shall be labeled to identify all interior spaces with interior room net square footage in the "footprint" of the entire project. For "warm, safe, and dry" (systems) projects, the major system components and their location shall be identified.

3.30.1 The schematic drawing does not have to be prepared by a licensed architect, but must meet the approval of the Division as to the actual detail required.

3.30.2 An aerial photograph is not a "diagram" and may not serve as the basis for the required schematic drawing.

3.31 "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.

3.32 "Self-Funded Project" - A project where the moneys needed to complete the project are one hundred percent (100%) raised and provided by the school district, and that shall be submitted to and approved by the Division upon compliance with state codes and standards. Any project, whether the district requests state financial participation or not, shall meet the standards of the Arkansas Public School Academic Facilities Manual or industrial codes and the Program of Requirements.

3.33 "State financial participation" - The state's share of financial participation in a local academic facilities project eligible for state financial participation according to the prioritization schedule established by the Commission and set forth in Section 5.05 of these Rules.

3.34 "Suitability" – The process undertaken by the Division to determine whether any existing academic facility is eligible for state financial participation for new construction projects, as set forth in Section 5.05 of these Rules. The state financial participation shall be the project cost described in Section 3.25~~3~~ multiplied by the difference of one hundred percent (100%) minus the school district's wealth index. Except for approved warm, safe, and dry (systems) projects, only that space total gross square footage required by the POR which is not already deemed available to a school district, whether on an existing campus or a new school campus, shall be determined eligible for state financial participation.

3.34.1 On An Existing Campus:

When a school district is proposing a new construction project on an existing campus with existing educational facilities, the district shall submit a POR of the existing campus and the Division shall compare the appropriate existing total gross square footage space of the existing facility on the **campus** to the total gross square footage space requirements of the POR for the proposed new school facility based on the projected student enrollment by grade level. After making the comparison, the school will only be deemed to not be suitable and thus eligible for state financial participation on a proposed facility project for the additional gross square footage space required in the POR not currently available on the school **campus** (based on the Division's campus reports or other confirmed information made available to the Division) or on other campuses affected by grade reconfigurations as part of the project. The district shall submit PORs for all campuses and grades affected by the grade reconfigurations which are a part of the project. However, the state recognizes that four particular space areas existing in school districts on or before 2008 may skew the comparison of existing space to that of the required POR space. Therefore, the Division will not count as existing space that total gross footage area above the required POR standard for the following four areas that existed on or before 2008: Physical Education, Media Center, Student Dining and Performing Arts.

3.34.2 On A New School Campus:

When a school district is proposing a new construction project on a school campus for which the Division determines there are no other currently existing appropriate school facilities or the district is seeking a separate LEA number for the new academic facility, the district shall submit a POR for the new school campus and the Division shall

compare the total gross square footage required by the POR for the proposed facility for the appropriate student grade population to that currently existing total gross square footage available in the **district** (based on the Division's campus and district reports or other confirmed information made available to the Division) for the appropriate student grade population in their final grade configuration less the gross square footage to be demolished as part of the proposed project. The Division shall also include other campuses and grades affected by grade reconfigurations as part of the project. The district shall submit PORs for all campuses and grades affected by the grade reconfigurations which are a part of the project. After making the comparison the school will only be deemed to not be suitable and thus eligible for state financial participation on a proposed facility project for that additional space required in the POR not currently available in the school district for the appropriate student population in their final grade reconfiguration. The State recognizes that four particular space areas existing in the school district may skew the comparison as mentioned above in Section 3.34.1 of these Rules in the "on an existing campus" comparison. As a result, the Division will give the same consideration and not count as existing space that total gross footage area above the required POR standard already existing in the district on or before 2008.

3.34.3 Warm, safe, and dry (systems): For new construction projects not requesting additional space or replacement of academic square footage, state financial participation will only be provided for warm, safe, and dry system projects. Suitability analysis and determination shall be made on a project by project basis and shall be determined based on the actual need as determined by the Division using current Facilities Manual standards.

3.35 "Waiver" and "Variance" – The process by which a school district in unusual and limited circumstances may seek a waiver or variance from Sections 4.06, 4.07, 4.09, 7.06 and 7.07 of these Rules as approved by the Division.

3.36 "Warm, safe, and dry" – New construction projects deemed necessary by the Division to provide students a warm, safe, and dry educational environment. State financial participation may be available for two categories of warm, safe, and dry projects:

3.36.1 "Warm, safe, and dry (systems)" – New construction projects that support a facility's needs as they pertain to fire and safety needs, roofing, major plumbing replacements, major electrical replacements, HVAC systems and structural needs. These projects must apply to the entire facility or system or if a separate building the entire building. Fire and safety needs include fire alarms and warning systems and fire prevention systems, but do not include surveillance systems, security systems or closed circuit TV systems. On and after July 1, 2015, state

financial participation will be available for warm, safe, and dry (systems) projects only for the 2015-2017 and 2017-2019 Project Funding Cycles and will be subject to a statewide maximum limitation on the funds available.

3.36.2 "Warm, safe, and dry (Space Replacement)" – New construction projects that build a new academic facility to replace an existing academic facility that is not deemed by the Division to provide students a warm, safe, and dry educational environment. In some instances, districts may perform a total facility renovation instead of a building replacement. Total renovation means that all building systems determined by the Division to be required to bring the facility to "like-new" condition are replaced. Total renovations shall comply with Sections 4.06 and 4.07 of these Rules.

3.36.3 Warm, safe, and dry projects do not include land purchases or environmental clean-up or supersite clean-up.

3.36.4 Districts are not required to replace an academic facility when the Building Value is at or below zero percent (0%).

4.00 SUBMISSION PROCESS

4.01 All applications for state financial participation under a Project Funding Cycle of this Partnership Program shall be submitted electronically by utilizing the Master Plan Web Tool located on the Division's Internet website http://arkansasfacilities.arkansas.gov/ no later than 4:30 p.m. on March 1 of every even-numbered year.

4.01.1 If, during an even-numbered year, the Arkansas State Board of Education orders the involuntary annexation or consolidation of school districts, the receiving or resulting school district after annexation or consolidation may submit an updated master plan to the Office of the Director of the Division of Public School Academic Facilities and Transportation no later than January 1 of the following odd-numbered year.

4.01.2 If, during an even-numbered year, the Arkansas State Board of Education orders the involuntary annexation or consolidation of school districts, the receiving or resulting school district after annexation or consolidation may submit an application for state financial participation under this Partnership Program to the Office of the Director of the Division of Public School Academic Facilities and Transportation no later than February 1 of the following odd-numbered year.

4.01.3 For the purposes of Section 4.01.1 and 4.01.2, the phrase "involuntary annexation or consolidation" includes annexations or consolidations approved or required by the Arkansas State Board of Education pursuant to Ark. Code Ann. §6-13-1601 et seq.

4.02 A school district may apply for state financial partnership participation under these Rules for projects that fall under one (1) of the following categories:

- Warm, safe, and dry;
- New facilities;
- Add-ons and/or Conversions; and
- Consolidation/annexation projects.

If the state provides financial participation for an add-on or conversion project, or a consolidation/annexation project that adds space to an existing campus, the district must construct any missing component to the POR specification. The district will have to submit a POR showing a component contained in the POR it does not have and add it, in the following order:

- Academic Core Areas;
- Special Education;
- Student Dining;
- Administrative

The state will not participate in add-on projects concerning gymnasiums, media centers and/or auditoriums if the district already has this space or is in need (according to the POR) of Academic Core Areas, Special Education or Student Dining Areas.

The state will consider the replacement of demolished space to be a prudent and resourceful expenditure of state funds issue. School districts are encouraged to discuss such issues with the state before entering into demolition projects when the districts will be filing applications for state partnership assistance.

School districts applying for state financial participation for projects that support their Facilities Master Plan shall file applications (and approved PORs and schematic drawings) in a format prescribed by the Division and shall list the applications in the district's Facilities Master Plan. No project shall be considered for state financial partnership participation unless it is included in the district's Facilities Master Plan.

4.02.1 The timelines set out in Section 4.01 of these Rules concerning submission of partnership applications with schematic drawings and district submitted PORs must be complied with.

4.03 Any project that applies for state financial assistance must prove suitability. All warm, safe, and dry (Space Replacement) projects that involve the demolition of space for replacement of the same space will be considered a prudent and resourceful expenditure of state funds issue.

4.03.1 Warm, safe, and dry (Space Replacement) projects that replace stand-alone student dining and kitchen facilities are not required to prove the suitability described in Section 3.34.1. If the district provides a complete application for and the Division agrees with the need for replacement of the student dining and kitchen facility, the project will be eligible for state financial participation to the POR required size of a replacement student dining and kitchen facility.

4.04 Any submission for state financial participation which does not comply with applicable state laws and these Rules shall be denied by the Division. Any district whose submission is denied by the Division under this Section 4.04 may submit a written appeal of the Division's decision to the Commission.

4.05 In order to apply for state financial participation in a new construction project, a school district shall provide the Division with a detailed narrative, description, and justification for the project and evidence of:

4.05.1 Preparation for the new construction project as demonstrated by inclusion of the new construction project in the school district's facilities master plan;

4.05.2

(i) The adoption of a resolution certifying to the Division the school district's dedication of local resources to meet the school district's share of financial participation in the new construction project.

(ii) The resolution shall specify the approximate date that the board of directors of the school district intends to seek elector approval of any bond or tax measures. If, as of the date of application, the school district has already obtained elector approval of the bond or tax measure, the resolution shall identify the date of the election at which approval was obtained.

(iii) If the board of directors of the school districts intends to apply other local resources to pay the school district's share of the financial participation in the new construction project, and does not intend to seek elector approval of a bond or tax measure, the resolution shall specify the approximate date the board intends to apply the other local resources.

(iv) If the resolution does not identify an approximate date for elector approval or application of other local resources, the submission shall be denied by the Division;

4.05.3

(i) The total estimated cost of the new construction project that shall be a minimum of three hundred dollars ($300) per student or one hundred and fifty thousand dollars ($150,000), whichever is less, per campus or district depending upon whether the project is a campus or district project. <u>This project minimum does not apply to a construction project with a school nursing center.</u>

(ii) Same system projects may not be combined across multiple facilities (campuses) nor multiple system projects combined to meet the minimum dollar threshold for Partnership Program funding for a warm, safe, and dry (systems) project;

4.05.4 The new construction project's conformance with sound educational practices;

4.05.5 The new construction project's compliance with current academic facilities standards, including, without limitation, appropriate space utilization of the applicable school in the district as determined by the Division;

4.05.6 The allocation of project costs between new construction activities and maintenance, repair, and renovation activities if the new construction project includes improvements that could be classified as maintenance, repair, and renovation;

4.05.7 How the new construction 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

4.05.8 A statement of the district's intent, if any, to seek incentives for LEED Certification or Green Globes Certification pursuant to Section 10.03 of these Rules.

4.05.9 District submitted PORs in accordance with the requirements of Section 3.34 of these rules.

(i) On a new campus to compute suitability;
(ii) On an existing campus to compute suitability;
(iii) On other existing campuses to compute excess suitability.

4.06 All proposed new construction projects shall be in compliance with the standards set forth in the Arkansas Public School Academic Facilities Manual which is attached to these Rules as "Appendix A", as set forth in Section 3.05 of these Rules.

4.06.1 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, and;

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

4.07 All applications for state financial participation under this Partnership Program for new construction projects which are not considered warm, safe, and dry (systems) projects pursuant to these Rules shall be prepared in accordance with the Program of Requirements except in unusual and limited circumstances (including, but not limited to, the variances set forth in Sections 4.06.1 and 4.06.2 of these Rules) where the Division determines that a waiver of the POR is the only means whereby the district can meet adequacy requirements. The POR is attached to these Rules as "Appendix B", as set forth in Section 3.23 of these Rules. In such instances, a district may submit a request in writing to the Division, signed by the district's Superintendent and President of its Board of Directors, setting forth in detail the circumstances requiring the waiver for the POR. No waiver request shall be deemed granted unless and until an Order to that effect has been signed by the Division.

4.08 At least sixty (60) days before the application deadline set forth in section 4.01 of these Rules, a~~A~~ district may request in writing by letter or e-mail (received by the Division during this period) and be granted by the Division a review conference that shall be held within twenty (20) working days after the date of request. The district may be advised through the review conference process by an architectural and engineering firm if the school district pays the cost of the advice from the architectural and engineering firm.

4.08.1 The review conference shall consider the following:

(i) That the proposed project is academic;

(ii) The application of the space calculation to the project; ~~agreed upon by the district and the Division;~~

(iii) The wealth index of the district and the date at which the wealth index will be applied to the partnership project if approved;

(iv) The project cost promulgated by the Commission under Ark. Code Ann. §6-20-2509, for the project and the date on which

the project cost data will be applied to the partnership project if approved;

(v) If the applicant provides a ***complete application***, ~~A~~ a projected amount of state funding based on current application of the wealth index and the project cost promulgated by the commission under Ark. Code Ann. §6-20-2509, to the planned project for planning purposes to allow a projection of local funding share required.

(vi) Whether or not the proposed application, as submitted, meets all of the technical requirements for partnership applications as set out in the application guidelines and Rules provided by the Division for the applicable partnership program application cycle.

~~(vi)~~(vii)The Division shall make a written record of the findings of the review conference and provide a copy of the written record to the school district within five (5) working days after the written record is finalized. All findings are subject to final review and Commission approval.

4.09 The minimum requirement set forth in Section 4.05.3 of these rules may be waived by the Division upon a recommendation being made by the Director of the Division to the Commissioners for the Division for the minimum to be waived for cause and a majority of the Commission supports the waiver.

5.00 DIVISION'S EVALUATION AND APPROVAL OF SCHOOL DISTRICT'S APPLICATION

5.01 The Division shall use criteria to evaluate a school district's application for state financial participation in a new construction project, pursuant to Ark. Code Ann. §6-20-2507, which shall include, without limitation, the following:

5.01.1 How the school district's facilities master plan and current academic facilities do not address the following:

(i) Student health and safety, including, without limitation, but not limited to, critical health and safety needs;

(ii) Compliance with current academic facilities standards, including, without limitation, appropriate space utilization of existing academic facilities in the district;

(iii) Conformance with sound educational practices;

(iv) Curriculum improvement and diversification, including,

without limitation, the use of instructional technology, distance learning, and access to advanced courses in science, mathematics, language arts, and social studies;

(v) Multischool, multidistrict, and regional planning to achieve the most effective and efficient instructional delivery system;

(vi) Reasonable travel time and practical means of addressing other demographic considerations; and

(vii) Regularly scheduled maintenance, repair, and renovation;

5.01.2 How the school district's facilities master plan and any new construction project under the facilities master plan address the following:

(i) Student health and safety, including, without limitation, critical health and safety needs;

(ii) Compliance with current academic facilities standards, including, without limitation, appropriate space utilization of existing academic facilities in the district;

(iii) Conformance with sound educational practices;

(iv) Curriculum improvement and diversification, including, without limitation, the use of instructional technology, distance learning, and access to advanced courses in science, mathematics, language arts, and social studies;

(v) Multischool, multidistrict, and regional planning to achieve the most effective and efficient instructional delivery system;

(vi) Reasonable travel time and practical means of addressing other demographic considerations; and

(vii) Regularly scheduled maintenance, repair, and renovation;

5.01.3 How the new construction 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;

5.01.3.1 The Division may perform on-site inspections of the school district facilities during the evaluation of project applications.

5.01.4 How the new construction project has been prioritized by the school district; and

5.01.5 The allocation and expenditure of funds in accordance with this subchapter and the Arkansas Public School Academic Facility Program Act, Ark. Code Ann. §6-21-801 et seq.

5.01.6 In evaluating a school district's application for state financial participation in a new construction project, the Division may resolve any internal inconsistency in or conflict among the application components and supporting documentation by giving precedence to the application components in the following order:

(i) The resolution adopted by the board of directors of the school district;
(ii) The narrative application contents submitted electronically through the Master Plan Web Tool;
(iii) Schematic drawings; and
(iv) Other supporting documents submitted with the application.

5.02 The Project Cost shall be limited to the cost for an alternative project if the Division determines that an alternative project meets facility standards and addresses the suitability and safe, dry and healthy needs expressed by the district in its master plan and project application. The alternative project may consist of replacement of the original facility or component to the original configuration of construction at the most current state standard.

5.03 If a school district should fail to comply with any of the requirements set forth in state law and/or these Rules concerning the Division's evaluation of its application, the Division and Commission can deny the application for state financial participation.

5.04

(i) The Division shall review all projects submitted to determine their suitability for state financial participation, pursuant to the suitability criteria set forth in Section 3.34 of these Rules.

(ii) No project that is determined by the Division to go beyond "suitable" will be approved for state financial participation.

5.05 Prioritization of Projects: All approved partnership projects for each fiscal year of the 2015-17 Project Funding Cycle and each Project Funding Cycle thereafter shall be funded according to the following order as funding shall become available:

5.05.1 Warm, safe, and dry (Systems)

(i) For the 2015-2017 and 2017-2019 Project Funding Cycles only, and subject to the availability of funds as restricted in this Section, all warm, safe, and dry (systems) new construction projects for which the

Commission determines that a school district is currently not in suitable condition shall be entitled to receive state partnership assistance in a ranking of first order prior to any other partnership project. Any and all warm, safe, and dry (systems) projects for which the Commission determines the district is currently in a suitable condition shall not be entitled to any state partnership assistance for that particular project or part thereof. To the extent there is limited funding available, the warm, safe, and dry (systems) projects shall be prioritized as follows:

First, the Division shall numerically rank all school projects based on the Facilities Wealth Index of the school district. The districts with the least Wealth Index shall be ranked first with the districts with the greater Wealth Index numerically ranked last.

Second, the Division shall numerically rank all school projects based on the third-quarter average daily membership (ADM) of the school district for the school year in which the application for state partnership assistance is filed. The districts with the least ADM shall be ranked first with the districts with the greater ADM numerically ranked last.

Third, the Division shall average the numerical ADM and Wealth Index ranking of each school's project. Once each project is averaged, the Division shall establish a ranked order with the projects with the lowest average score being ranked first and the projects with the highest average score being ranked last.

Warm, safe, and dry (systems) projects shall receive ranking of first order prior to any other partnership project only to the extent that the total state financial participation in all warm, safe, and dry (systems) projects does not exceed $10 million in the aggregate for each year of the Project Funding Cycle, or $20 million in the aggregate for the Project Funding Cycle. All otherwise eligible warm, safe, and dry (systems) projects that, because of their ranking, are beyond the aggregate statewide $10 million limitation, will not be funded.

(ii) Warm, safe, and dry (systems) projects shall be entitled to receive state partnership assistance after the 2017-2019 Project Funding Cycle in a ranking of third priority order.

5.05.2 New Facilities, Add-Ons, and Conversions:

For the 2015-2017 and 2017-2019 project funding cycles, all new facilities, add-ons, and conversion partnership projects which are approved by the Commission because a school district or campus is currently deemed not suitable shall be ranked and, thus, entitled to receive state partnership assistance in a ranking of second order prior

to any other partnership project according to the following procedure of ranked order, subject to the availability of funds:

The Division shall numerically rank all new facilities, add-ons, and conversion projects based on a ten (10) year actual growth of student population review with the districts with the greatest percentage of growth being ranked first and districts with the least percentage of student growth ranked last. The growth is measured by showing (on a percentage basis) the student population growth when comparing the three quarter average daily membership of the district ten (10) years ago to the district's three quarter average daily membership in the previously completed school year. If a district has not been in existence for at least ten (10) school years as a result of the annexation or consolidation of other districts into it or with it, then for any years within the last ten (10) years for which the district was not in existence its three quarter average daily membership shall be the sum of the three quarter average daily membership of those former school districts that now comprise the school district applying for state financial participation.

Conversion projects will be reviewed against POR requirements to determine compliance with the POR. If the Division determines that the project qualifies for state financial participation, then the project will be subject to the conditions set forth in Sections 4.00 and 5.00 of these Rules. After the 2017-2019 project funding cycle, projects in this Section shall be entitled to receive state partnership assistance in a ranking of first priority order.

5.05.3 Warm, safe, and dry (Space Replacement)

For the 2015-2017 and 2017-2019 project funding cycles, all warm, safe, and dry (Space Replacement) new construction projects for which the Commission determines that a school district is currently not in suitable condition shall be entitled to receive state partnership assistance in a ranking of third order prior to any other partnership project according to the following procedure of ranked order, subject to the availability of funds. To the extent there is limited funding available, the warm, safe, and dry (Space Replacement) projects shall be prioritized according to the school district's Wealth Index and the campus or campuses value (depending upon the type of project for which the district applies for state partnership assistance).

First, the Division shall numerically rank all warm, safe, and dry (Space Replacement) projects based on the campus (or campuses) value depending on what type of project is proposed. The projects with the lowest campus value shall be ranked first and in ascending order to the projects with the greatest campus value. Second, the Division shall numerically rank all warm, safe, and dry (Space

Replacement) projects based on the Facilities Wealth Index of the school district. The districts with the least Wealth Index shall be ranked first with the districts with the greater Wealth Index numerically ranked last.

Third, the Division shall average the campus value and Wealth Index ranking of each school's warm, safe, and dry (Space Replacement) project. Once each project is averaged, the Division shall establish a ranked order with the projects with the lowest average score being ranked first and the projects with the highest average score being ranked last.

Any project for which the Commission determines the district or campus is currently suitable shall not be entitled for any state partnership assistance in that year's partnership cycle.

The suitability analysis and determination of warm, safe, and dry (Space Replacement) projects shall be performed as per Section 3.34.

After the 2017-2019 project funding cycle, projects in this Section shall be entitled to receive state partnership assistance in a ranking of second priority order.

5.05.4 Consolidation/Annexation Projects

All projects that fall within the definition of "consolidation/annexation project" listed in Section 3.11 above and that meet all of the requirements of this Section shall be entitled to apply for state Partnership assistance. To the extent that funding is available, consolidation/annexation projects shall be evaluated and funded based upon the following criteria:

(i) Consolidations or annexations involving school districts that appear on the administrative consolidation list pursuant to Ark. Code Ann. §6-13-1602 shall not be eligible for partnership funding for consolidation/annexation projects;

(ii) A school district may only apply for state partnership funding for a consolidation/annexation project if the effect of the consolidation/annexation is to create, from two or more contiguous districts, one resulting or receiving district, as those terms are defined by Ark. Code Ann. §6-13-1401;

(iii) The consolidating or annexing districts must submit to the Division an order from the Arkansas State Board of Education granting approval for the consolidation or annexation;

(iv) The consolidating or annexing districts must submit to the

Division all required partnership documentation pertaining to the project;

(v) The consolidating or annexing districts must have the proposed project listed in the district's approved master plan, or in the alternative, submit an amended or new master plan that includes the proposed project;

(vi) The consolidating or annexing districts must apply for partnership funding in accordance with the partnership application procedures contained in this rule;

(vii) The consolidating or annexing districts must provide the names, LEA numbers and locations of all schools to be closed as a result of the consolidation or annexation and the applicable dates of such action when submitting their Master Plan;

(viii) Consolidation/annexation projects for new schools shall not be penalized for current space as set forth in Section 3.34.2 above, nor shall consolidation/annexation projects be subject to the provisions set forth in 5.02 above. The resulting or receiving district must certify to the Division that the district's current available space will either be used for a valid educational purpose or disposed of in a manner authorized by law;

(ix) The Division shall review the proposed consolidation/annexation projects to ensure that the location of the proposed consolidation/annexation projects supports the prudent and resourceful expenditure of state funds;

(x) In addition to the criteria set forth in Section 5.05.4 (xi) below, all consolidation/annexation projects containing proposed additions to existing facilities will be evaluated in accordance with Section 3.34.1 above; Except that the Division may consider all school closings in the consolidation-annexation when determining space when available on other campuses;

(xi) "Consolidation/annexation" projects shall be prioritized in accordance with Section 5.05.2 of these rules and as follows:

Growth: Index: For those projects meeting the definition of a "consolidation/annexation" project and which comply with the requirements of this Section, the Division will numerically rank the consolidated/annexed school district's growth index at the greater of the following two levels: (1) the past ten years' growth as calculated in 5.05.2 above; or (2) the same growth level assigned to the project of the school district with the

greatest growth ranking represented in the same project year for which the consolidation/annexation partnership application is submitted.

(xii) After completion of the first applicable consolidation/annexation project, the Division will calculate a new wealth index for the resulting or receiving district that will be used to determine the amount of state financial participation in future academic facilities projects undertaken by the resulting or receiving district. These future academic facilities projects will not be evaluated according to the consolidation/annexation project criteria. Instead, the future academic facilities projects will be evaluated as a warm, safe, and dry project, a new facility, or as an add-on/conversion project, as applicable;

(xiii) Funds made available to a resulting or receiving district under the consolidation/annexation project process shall be in addition to, not in lieu of, funds made available to the resulting or receiving district under the Arkansas Department of Education Rules Governing the Distribution of Consolidation/Annexation Incentive Funding.

5.06 If the school district's new construction project is approved for funding in the current funding cycle, then the district must execute the Partnership Agreement attached to these Rules as "Appendix C", as which is hereby incorporated into these Rules as if fully forth herein. If the Partnership Agreement is not executed within the time period set forth in Section 7.06 of these Rules, unless there is an approved waiver, the state's financial participation in part or in whole may be deemed null and void by the Commission.

5.07 In accordance with Ark. Code Ann. §6-21-114(d) and the Commission's Rules Governing Property Insurance Requirements, every academic facility must be insured for at least 90% of replacement cost to be eligible for state financial participation. If, as of the date of application or at any point thereafter, an academic facility involved in a project is not sufficiently insured as required, as indicated in the district's current Statement of Values, the application shall be denied by the Division and any state financial participation shall cease.

6.00 AVAILABILITY OF STATE FINANCIAL PARTICIPATION AND TIMELINES

6.01 State financial participation under the academic facilities partnership program is not available until July 1 of each year. The Division shall give priority in state financial participation to school district proposals relating to academic facilities according to the prioritization process set forth in Section 5.05 of

these Rules. In allocating funds for state financial participation, the Division shall set aside funds sufficient to pay the incentives set forth in Section 10.0 of these Rules.

6.02 To the extent a district's Partnership Project has been ranked of such low priority and there are not sufficient state funds available to fully fund the district's Partnership Project, the district shall be entitled to the following:

(i) The Division shall consider the district's current application a valid application for the next Partnership Project cycle and will prioritize and fund the application consistent with the prioritization and funding amounts utilized in the next Partnership Project cycle; or

(ii) The district may choose to withdraw its project application prior to the next Partnership Program cycle and reapply for Partnership Project assistance in a subsequent cycle based upon that year's availability of funding pursuant to that cycle's adjusted funding rate and Partnership Program.

(iii) Approved projects not funded in the first year of a Partnership Program cycle will be moved to the second year of the Partnership Program cycle and ranked after all of the approved year-two projects per Section 5.05 of these Rules.

6.03 With regard to an academic facilities project for which a school district intends to apply for state financial participation, the Division shall notify the school district of its final decision on the application and the estimated amount of state financial participation in the new construction project no later than May 1 of each odd-numbered year.

The Division's notice of its decision on a school district's application for state financial participation in a new construction project shall include an explanation of the evaluation factors underlying the decision of the Division to provide or not provide state financial participation in support of the new construction project.

(i) New Construction Projects, which are newly constructed academic facilities or additions for which a square foot cost would be applicable to all facets of the construction, may qualify for funding in the lesser amount of either option A: which is the dollar amount set by the Division and incorporated herein or otherwise known as New Facilities Project Cost Funding Factor which shall be that factor established on a regional basis by the Division in effect as of May 1, 2009, and updated annually by the Division in compliance with Ark. Code Ann. §6-20-2509; plus the appropriate soft cost for demolition costs and/or asbestos abatement in the amount of one (1) percent of the Funding Factor for each category multiplied by the approved project square feet multiplied by the difference of one hundred percent (100%)

minus the school district's wealth index (however, the Funding Factor shall not increase to more than $175.00 per square foot without the approval of the Commission) or option B: which is the actual construction cost amount multiplied by the difference of one hundred percent (100%) minus the school district's wealth index.

(ii) Conversion projects or projects which are building systems or components thereof, not covered in (i) above may qualify for funding in the lesser amount of either option A: the dollar amount set by the Division and incorporated herein or otherwise known as the warm, safe, and dry (systems) and Conversion Project Cost Funding Factor - which shall be that factor established on a regional basis by the Division in effect as of May 1, 2009, and updated annually by the Division in compliance with Ark. Code Ann. §6-20-2509; plus the appropriate soft cost for demolition costs and/or asbestos abatement in the amount of one (1) percent of the Funding Factor of each category multiplied by the approved unit of measure per project multiplied by the difference of one hundred percent (100%) minus the school district's wealth index (however, the Funding Factor shall not increase to more than $175.00 per square foot without the approval of the Commission) or option B: the actual construction cost amount multiplied by the difference of one hundred percent (100%) minus the school district's wealth index.

7.00 AGREEMENT BETWEEN THE DIVISION AND THE SCHOOL DISTRICT CONCERNING STATE FINANCIAL PARTICIPATION

7.01 If the Division determines that the new construction project is eligible for state financial participation, the Division and the school district shall enter into an agreement specifying the terms of the state's financial participation and the conditions that must be satisfied by the school district.

7.02 At a minimum, the agreement shall:

(i) Identify the estimated amount of local financial participation and state financial participation in the new construction project. The estimated amount of the state's financial participation, as stated in the agreement, will be arrived at after the schematic drawings and any variances to the Arkansas Public School Academic Facilities Manual are considered for new facilities, new additions to facilities or renovations or conversions. The final amount of the State's financial participation will be specified upon receipt of the final contract amount and determined as specified in Section 6.03 of these rules:

(ii) Define the method of and schedule for transferring state financial participation funds to the school district;

(iii) Identify whether the new construction project includes any improvements that are classified as maintenance, repair, and renovation, and how the project costs will be allocated between new construction activities and maintenance, repair, and renovation activities;

(iv) Define the detailed scope of work for which the agreement applies;

(v) Provide that changes to the plans for the new construction project shall be made in consultation with the Division;

(vi) Provide the areas of project responsibility of both parties during the course of the project;

(vii) Provide that the district shall be in compliance with all state laws concerning bidding and construction;

(viii) Provide that the Division or any person acting on behalf of the Division may conduct on-site inspections of the new construction project as frequently as the Division deems necessary to assure the prudent and resourceful expenditure of state funds with regard to public school academic facilities;

(ix) Determine how risk will be allocated between the school district and the state if the new construction project is not completed;

(x) Describe how changes in the school district's wealth index over the course of the new construction project will be treated; and

(xi) Specify that the agreement is void and the state will have no further obligation to provide state funds to the school district for the new construction project that is the subject of the agreement if the school district does not raise local resources and apply local resources toward the project as provided under the agreement.

7.03 The agreement specified above and required by Ark. Code Ann. §6-20-2507 is attached to these Rules as "Appendix C", as set forth in Section 5.06 of these rules.

7.04 All funding agreements under these Rules are contingent upon the prudent and resourceful expenditure of state funds as determined by the Division.

7.05 Before the district is allowed to proceed and start construction on the project, the district must submit, and the Division must approve, its final plans and complete specifications.

7.06 Within sixty (60) days of the Commission's final approval and funding of the district's partnership project, the agreement referenced in Sections 7.02 and

7.03 of these rules must be executed by the district and the Division. The Division shall have the right to grant a waiver from this provision, if the district has unusual and limited circumstances which prevent it from executing the agreement within the sixty (60) day timeframe.

7.07 If the Partnership Agreement is not executed within the time period set forth in Section 7.06 of these Rules, unless there is an approved waiver request or appeal pending before the Academic Facilities Review Board or Commission, the state's financial participation in whole or in part may be deemed null and void by the Division.

Construction of the project, as evidenced by a signed construction contract, must begin within eighteen (18) months from the date of the final approval of the project by the Commission. The district must obtain the Division's approval of the completion of all district project requirements within four (4) years from the date of final approval of the project by the Commission. For the purposes of this subsection, the phrase "signed construction contract" includes construction management contracts.

A district may request a waiver of timelines in Section 7.07 of these Rules if the district believes it can show unusual and limited circumstances which prevent it from meeting the timelines. State financial participation in a district's project is contingent upon the district meeting all timelines and deadlines set forth in these Rules. Absent an approved appeal or waiver, the Division may render the state's financial participation in a district's project null and void in whole or in part for failure to meet all of the timelines and deadlines set forth in these Rules and may recapture any state partnership funding assistance funds already paid to the district.

7.08 Payment of an incentive awarded pursuant to Section 10.0 of these Rules shall not be made to a district until the new facilities project is completed and the appropriate third-party certification entity or assessor has awarded final certification for the project.

8.00 APPEAL PROCESS

8.01

(i) A school district may appeal any determination of the Division to the Commission pursuant to the Rules Governing Commission Appeals.

(ii) If the district appeals the determination of the Division to the Commission or the Academic Facilities Review Board, the Commission or the Academic Facilities Review Board shall have the authority to fully review all parts of the district's Partnership Project(s) (project) and may approve, deny, reduce or increase the amount of state financial participation in any or all of the appealed project(s).

9.00 DISTRIBUTION AND TRACKING OF STATE FINANCIAL PARTICIPATION

9.01 If a school district qualifies for state financial participation under this Section, the Division shall certify the amount of state financial participation to the Commission for oversight purposes. The Commission shall certify the amount to the Arkansas Department of Education for payment.

9.02 The amount of the State Financial Participation under these rules is limited to the amount resulting from the application of the academic facilities wealth index to the project cost promulgated by the Commission to calculate the cost necessary to bring the academic facility into compliance with the Arkansas Public School Academic Facilities Manual under Ark. Code. Ann.§6-20-2509, plus any incentives awarded pursuant to Section 10.0 of these Rules.

9.03 The Commission shall certify the amount to the Arkansas Department of Education for payment, less any withholding or reduction imposed by the Commission under Ark. Code Ann. §6-21-114(d) for a school district's failure to comply with the Commission's insurance requirements.

9.04 For tracking purposes, the school district shall account for the funds received as state financial participation under this Section as restricted funds and shall account for the funds in accordance with provisions of law, including, without limitation, 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.

10.00 INCENTIVES FOR "GREEN" FACILITIES

10.01 The purpose of this Section is to encourage school districts to build environmentally-friendly new facilities by offering financial incentives through the Academic Facilities Partnership Program.

10.02 DEFINITIONS - For the purpose of this Section, the following terms mean:

10.02.1.1 "LEED Certification" – Certification of a project by a professional third-party certification entity pursuant to the Leadership in Energy and Environmental Design (LEED) for Schools Rating System developed by the U.S. Green Building Council and administered by the Green Building Certification Institute.

10.02.1.2 "Green Globes Certification" – Certification of a project by a professional third-party assessor pursuant to the Green Globes Rating System developed by the Green Building Initiative.

10.03 A new facilities project shall be eligible for financial incentives under this Section if the school district gives timely notice to the Division of the district's intent to seek LEED certification or Green Globes certification for the project. In its notice, the district shall identify which specific type and level of certification it intends to seek.

10.03.1 Notice must be given concurrently with the district's application for state financial participation under Section 4.0 of these Rules.

10.04 A district which completes an eligible new facilities project and successfully obtains LEED certification or Green Globes certification for the project shall be awarded an incentive calculated as a percentage of the amount of state financial participation in the project, as follows:

(i) LEED Certification, Silver: one percent (1%);

(ii) LEED Certification, Gold: one and one-half percent (1.5%);

(iii) LEED Certification, Platinum: two percent (2%);

(iv) Green Globes Certification, Two Globes: one percent (1%);

(v) Green Globes Certification, Three Globes: one and one-half percent (1.5%); or

(vi) Green Globes Certification, Four Globes: two percent (2%).

10.05 A project shall be eligible for financial incentives under this Section for LEED certification, or for Green Globes certification, but not for both certifications. No project shall be eligible for financial incentives for a level of certification higher than the level identified in the district's application for state financial participation.

10.06 Financial incentives awarded under this Section shall be in addition to the amount of state financial participation calculated under these Rules.

10.07 A district's application or eligibility for financial incentives under this Section shall have no effect on the prioritization of a project under Section 5.05 of these Rules.

Emergency Clause

Whereas, Act 962 of 2015, Section 3, affords school districts the opportunity for a review conference with the Division of Public School Academic Facilities and Transportation in which, among other things, their Partnership Program applications will be reviewed, assuming that the school districts request the conference "[a]t least sixty (60) days before the application deadline" for Partnership Program applications. Applications must be

received on or before March 1, 2016, thus requiring interested school districts to request a review conference by the end of December, 2015.

Whereas, school districts must receive sufficient notice of this deadline in order to timely complete their applications and request a review hearing.

THEREFORE, the Commission for Arkansas Public School Academic Facilities and Transportation hereby determines pursuant to Ark. Code Ann. § 25-15-204 that immediate peril to the welfare of Arkansas public schools and students will result without the immediate promulgation of these rules.