

**THE ARKANSAS DIVISION OF PUBLIC SCHOOL ACADEMIC
FACILITIES AND TRANSPORTATION
RULES GOVERNING THE USE OF
PUBLIC-PUBLIC PARTNERSHIPS BY SCHOOL DISTRICTS**

November 2005

1.00 REGULATORY AUTHORITY

1.01 The Arkansas Commission of Public School Academic Facilities and Transportation's authority for promulgating these Rules is pursuant to Ark. Code Ann. §§ 6-21-113 (Act 1327 of 2005), 6-20-414 (Act 1368 of 2005) and 25-15-201 *et seq.*

2.00 PURPOSE

2.01 The purpose of these Rules is to establish the process and procedures for any school district to use public-public partnerships as a project delivery method for the building, altering, repairing, improving, maintaining, or demolishing of any structure, or any improvement to real property owned by the district.

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

3.01 "Altering" - the process of making a significant change to a structure, which essentially creates a different structure.

3.02 "Building" - the process of making a structure by putting together materials, parts, et cetera.

3.03 "Demolishing" - the process of wrecking or razing a structure, for the purpose of rendering the structure unfit for its current use.

3.04 "Facility" - a building or space, including related areas such as the physical plant and grounds, whose primary use is for students to receive instruction that is an integral part of an adequate education as described in Ark. Code Ann. § 6-20-2302.

3.05 "Goods" - any items of tangible movable personal property other than money.

3.06 "Governmental agency" - an executive, legislative or judicial agency, department, board, commission, authority, institution, or other instrumentality of the federal government, or of the state, or of a county or municipality.

3.07 "Improving" - the process of making an addition to real property.

- 3.08 "Institution of Higher Education" - any public university, college, technical college, and community college now or hereafter established or authorized by the General Assembly or any non-publicly supported not-for-profit college or university.
- 3.09 "Maintaining" or "Repairing" - any activity or improvement to a facility, and, if necessary, related areas such as the physical plant and grounds, that:
 - (A) Maintains, conserves, or protects the state of condition or efficiency of of the facility; or
 - (B) Brings the state of condition or efficiency of the facility up to the facility's original condition of completeness or efficiency.
- 3.10 "Political subdivision" - counties, municipalities and school districts.
- 3.11 "Public-public partnership" - a project delivery method in which a school district may enter into a contract to partner with another governmental agency, political subdivision, or institution of higher education to meet a clearly defined need for facilities, infrastructure, or goods and services.
- 3.12 "Real property" - land and anything attached to or erected on it, excluding anything that may be severed without injury to the land.
- 3.13 "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.
- 3.14 "Services" - the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance.

4.00 PUBLIC-PUBLIC PARTNERSHIPS

- 4.01 In order for a school district to request approval for the construction of a facility in a public-public partnership project, the district shall send a letter to the Division of Public School Academic Facilities and Transportation. The letter shall fully set forth the scope of the project, and shall also fully state the other participants in the project.
- 4.02 The primary use of the facility shall be the district's use of the facility.

- 4.03 The facility shall be designed in a manner to secure the areas used entirely by the district from the areas shared with the governmental agency, political subdivision and/or institution of higher education.
- 4.04 Separate utility meters shall be used for the areas of the building used exclusively by the district, shared between the two parties and used exclusively by the governmental agency, political subdivision or institution of higher education.
- 4.05 The design of the facility shall meet the requirements of the Public School Academic Facility Manual. During the development and/or review of the plans for the project, if in the Division's opinion full compliance with all of the standards established in the Public School Academic Facility Manual is not deemed to be possible, variances to the standards established in the Public School Academic Facility manual may be granted. No variances to the standards established in the Public School Academic Facility Manual shall be granted by the Division which would adversely affect the structural integrity of the project or which would cause the project to be out of compliance with any local, state or federal law or regulation.

5.00 FUNDING

- 5.01 The areas of the facility that will be used by the district exclusively shall be funded according to the district's facility wealth index on approved projects.
- 5.02 The areas of the facility that will be shared by the district, governmental agency, political subdivision or institution of higher learning shall be funded on a percentage basis according to the estimated use of the shared areas by the district and the district's facility wealth index.
- 5.03 The areas of the facility used exclusively by the governmental agency, political subdivision or institution of higher learning will not receive funding from the Division.