

**COMMISSION FOR ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES AND
TRANSPORTATION RULES GOVERNING THE ACADEMIC FACILITIES
PARTNERSHIP PROGRAM**

**PUBLIC COMMENTS AND RESPONSES OF THE DIVISION OF PUBLIC SCHOOL
ACADEMIC FACILITIES AND TRANSPORTATION**

Commenter Name: Lucas Harder, Arkansas School Boards Association (10/6/15)

Comment: in section 3.29, recommend changing Lawfully “called meeting” to “lawfully convened meeting,” as the phrase “called meeting” often used to refer to a board meeting that is not the regular monthly board meeting where the board convenes for a specific purposes.

Division Response: **Comment considered.** *Non-substantive change made.*

Commenter Name: Senator Uvalde Lindsey, Arkansas Senate (10/8/15)

Comment: I understand from a conversation with Terry Granderson that school districts are not required to record the performance of maintenance to school buildings in any reporting system that ADE can track. Therefore, there is no record to ensure the school districts are in fact performing repairs and maintenance as required to keep the property warm, safe, and dry, and avoid total replacement of the asset(s). I would suggest ADE consider requiring in Partnership Rules that School Districts record the cost of repair and maintenance in the state’s computerized maintenance system and that ADE track this report to ensure that districts perform the proper maintenance of their buildings.

Division Response: **Comment considered.** As part of the Public School Facilities Custodial, Maintenance, Repair and Renovation Manual established by Arkansas Code Annotated §6-21-808, Arkansas Code Annotated §6-21-808(c)(2)(B)(ii)(a) requires districts to participate in the state-level computerized maintenance management system (cmms) in order to track work orders and preventative maintenance work. The law goes on to describe items that require inspection and repair, training for staff, etc. What it does not do is require tracking of costs associated with the work orders. The state cmms (SchoolDude) has the capability to track cost and the SchoolDude vendor strongly urges the tracking of labor and material cost in order to maximize the effectiveness of the system. Some districts are tracking cost within the system and find it very beneficial, even “eye-opening,” to see what some systems are costing to maintain. While the Division agrees with the intent of the comment, the Division feels the change should be made statutorily and then the Division can develop appropriate rules to explain and implement that change. *No changes made.*

Commenter Name: Brett Kingrey, Academic Facilities Planner/Consultant, on behalf of “Anonymous Small District” (10/16/15)

Comment: The Rules keep growing and changing as funding disappears for small non-growth districts. With warm, safe, and dry money disappearing in a few more years, we have managed to come full circle from the original Lakeview decision. Bravo. The large wealthy districts continue to grow wealthy and receive significantly more funding, as the smaller outlying districts suffer. Perhaps the next one billion dollars we commit to school facilities could be more properly balanced, allowing children in every part of the state a similar classroom environment as the bigger districts. Otherwise, the Partnership program needs to disappear and more foundation funding should be offered equally across the board, for all districts to benefit from, allowing leaky roofs to be repaired, etc. Not every district needs a new school, but they all need dry schools and safe schools.

Having served children in this great state for many years, I realize that there is little room for logic and reason, especially when dealing with rules and regulations propagated by good old boy politics and a very prevalent “who you know, not what you know,” mentality.

At some point we must step back and analyze why we are doing what we are doing and if it is *actually* working. The system is broken, and those that broke it have no business fixing it. It’s time to bring the focus back to education for all students, regardless of the local economic conditions and social status. The quality of our schools is directly tied to the focus of our government. We still have a long way to go. It is time to fix things.

Department Response: **Comment considered.** There is no comment directly targeted to the content to the rules. *No changes made.*

Commenter Name: JoAnne Wooldridge, South Central Cooperative (10/23/15).

Comment: Please consider the following comments on rules governing the Academic Facilities Partnership Program. The persons represented on the signature page attached ask that the Division of Public School Academic Facilities and Transportation Commission adopt the proposed rule change as soon as possible to fund already approved and needed facility projects in the 2015-2017 funding biennium. [Attached signed by officials of South Central Service Cooperative, as well as the following school districts: El Dorado, Parkers Chapel, Junction City, Smackover-Norphlet, Strong-Huttig, Emerson-Taylor Bradley, Fordyce, Bearden, Harmony Grove, Camden Fairview, Magnolia, Hampton, Hope, Prescott, Lonoke, Cabot, Marion, Nettleton.]

Comments on Section 5.05.1(i)—More specifically the fifth paragraph. (Commenter includes verbatim language of fifth paragraph of 5.05.1(i)). Based on the most current data available, there is approximately \$6M in surplus in the DPSAFT partnership funding program. Section 5.05.1 prohibits [D]PSAFT from applying the surplus money to fund additional projects in the warm, safe, dry (system replacement) category beyond the \$10M. During the 2015-2017

funding cycle year one, 47 warm, safe, dry (WSD) projects were approved. Of the 47 approved, 23 were funded leaving 24 unfunded approved projects. This fact shows 24 unfunded projects designating a need for those districts. The DPSAFT agreed with those needs by approving the projects, but could not fund due to the rules stating there is a \$10M cap for WSD during the 2015-2017 and 2017-2019 funding cycles. The DPSAFT has the ability, with a rule change, to fund an additional 11 WSD projects making the total funded WSD of 34 projects. Any additional funds created by projects coming in under budget or not completed at all would go towards funding additional projects under WSD category. The proposed rule change would allow the DPSAFT to go beyond the \$10M cap. This portion would only be in effect for funding cycles 2015-2017 and 2017-2019.

Section 5.05.1(ii) proposed change: *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. In the event there is a surplus of funds after all priority 1 and 2 projects are funded during the funding cycles 2015-2017 and 2017-2019, the surplus of funds may be allocated to the warm, safe, dry category to exceed the \$10M limit each year.*

[NOTE: Commenter re-wrote the fifth paragraph of 5.05.1(i) to add the underlined language].

Division Response: **Comment considered.** The surplus funds generally are from space projects that did not get built due to a failed millage or for other reasons. The object of limiting the warm, safe and dry building system funds to the \$10 million dollars was to not take away funding for needed space projects. A district has nine percent its foundation funding to use for maintenance, repairs and replacement of needed building systems. The category of warm, safe, and dry space replacement projects was established to make it possible to replace the entire older dilapidated building as opposed to sinking money into an old building. *No changes made.*

Commenter Name: Harvie Nichols, Western Arkansas Educational Cooperative (10/23/15)

Comment: No definition is provided for “complete application.” If this term is going to determine if districts are going to have a review as required in Act 962 of 2015 then the term must be defined. Districts are entitled to know if they have met the criteria for a complete application.

Division Response: **Comment considered.** This comment has been addressed with the publication of Commissioner’s Memo FT-16-001. *No changes made.*

Commenter Name: Charles Stein, CStein, LLC, on behalf of the Berryville School District (10/23/15)

Comment: Section 4.03.1 of the Partnership Program Rules provides a waiver of the suitability requirements for warm, safe, and dry (space replacement) projects for stand-alone student dining and kitchen facilities. This waiver should be expanded to media centers and to include all facilities, not only stand-alone facilities. When the division agrees that an academic facility should be replaced, if that facility contains student dining and kitchen and/or media center spaces, those spaces must be replaced regardless of suitability.

Section 4.03.1 should be change as follows:

*Delete “stand-alone” in line 1

*After “facilities” in line 2 and “facility” in lines 5 and 7, insert “and/or media center.”

Division Response: **Comment considered.** *Substantive changes made.*

Commenter Name: Charles Stein, CStein, LLC, on behalf of the Bryant and Jacksonville-North Pulaski School District (10/23/15)

Comment: Section 6.03 of the Partnership Program rules states the following in both paragraphs (i) and (ii), “the Funding Factor shall not increase to more than \$175.00 per square foot without the approval of the Commission.” The \$175 per square foot maximum Funding Factor was established in March 2008 and has not been increased since that time. A review of national construction cost increases and construction cost increases around all Arkansas regions indicates that construction costs have escalated approximately 14% from 2008 to 2015. Additional escalation should occur between 2015 and the next Partnership Program project funding cycle in 2017-2019. Based on actual cost increases the maximum Funding Factor in Section 6.03 should be increased to $\$175/\text{SF} \times 114\% = \200 per square foot.

Division Response: **Comment considered.** *No changes made.*