

**QUESTIONNAIRE**  
**FOR FILING PROPOSED RULES WITH THE**  
**ARKANSAS LEGISLATIVE COUNCIL**

DEPARTMENT/AGENCY \_\_\_\_\_  
 DIVISION \_\_\_\_\_  
 DIVISION DIRECTOR \_\_\_\_\_  
 CONTACT PERSON \_\_\_\_\_  
 ADDRESS \_\_\_\_\_  
 PHONE NO. \_\_\_\_\_ FAX NO. \_\_\_\_\_ E-MAIL \_\_\_\_\_  
 NAME OF PRESENTER AT COMMITTEE MEETING \_\_\_\_\_  
 PRESENTER E-MAIL \_\_\_\_\_

**INSTRUCTIONS**

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- E. Submit two (2) copies of the Questionnaire and Financial Impact Statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Jessica C. Sutton  
 Administrative Rules Review Section  
 Arkansas Legislative Council  
 Bureau of Legislative Research  
 One Capitol Mall, 5th Floor  
 Little Rock, AR 72201

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1. What is the short title of this rule?

2. What is the subject of the proposed rule?

3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No

If yes, please provide the federal rule, regulation, and/or statute citation.

4. Was this rule filed under the emergency provisions of the Administrative Procedure Act?

Yes No

If yes, what is the effective date of the emergency rule? \_\_\_\_\_

When does the emergency rule expire? \_\_\_\_\_

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes No

**5. Is this a new rule? Yes No If yes, please provide a brief summary explaining the rule.**

**Does this repeal an existing rule? Yes No If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.**

**Is this an amendment to an existing rule? Yes No If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled “mark-up.”**

**6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation.**

**7. What is the purpose of this proposed rule? Why is it necessary?**

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

9. Will a public hearing be held on this proposed rule? Yes No If yes, please complete the following:

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Place: \_\_\_\_\_

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

\_\_\_\_\_

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

\_\_\_\_\_

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. \_\_\_\_\_

13. Please provide proof of filing the rule with the Secretary of State as required pursuant to Ark. Code Ann. § 25-15-204(e). \_\_\_\_\_

14. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

## **FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

DEPARTMENT \_\_\_\_\_  
DIVISION \_\_\_\_\_  
PERSON COMPLETING THIS STATEMENT \_\_\_\_\_  
TELEPHONE NO. \_\_\_\_\_ FAX NO. \_\_\_\_\_ EMAIL: \_\_\_\_\_

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two (2) copies with the Questionnaire and proposed rules.

### **SHORT TITLE OF THIS RULE**

1. Does this proposed, amended, or repealed rule have a financial impact? Yes No
2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?  
Yes No
3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If an agency is proposing a more costly rule, please state the following:

- a) How the additional benefits of the more costly rule justify its additional cost;
- b) The reason for adoption of the more costly rule;
- c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and
- d) Whether the reason is within the scope of the agency's statutory authority, and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

Next Fiscal Year

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

Total \_\_\_\_\_

Total \_\_\_\_\_

b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

General Revenue \_\_\_\_\_  
Federal Funds \_\_\_\_\_  
Cash Funds \_\_\_\_\_  
Special Revenue \_\_\_\_\_  
Other (Identify) \_\_\_\_\_

Total \_\_\_\_\_

Total \_\_\_\_\_

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ \_\_\_\_\_

\$ \_\_\_\_\_

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ \_\_\_\_\_

\$ \_\_\_\_\_

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes      No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
  - (a) justifies the agency's need for the proposed rule; and
  - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
  - (a) the rule is achieving the statutory objectives;
  - (b) the benefits of the rule continue to justify its costs; and
  - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

## **SUMMARY OF PROPOSED NEW RULES** **GOVERNING SCHOOL SAFETY**

These rules govern the requirements for school districts that accept school resource officers (SROs), the training requirements for SROs and school staff, and the responsibility of principals to report student criminal acts. The proposed new rules incorporate the provisions of Acts 622 and 648 of 2021. **These rules further govern the calculation method and distribution of School Safety Grant funds made available by Act 3 of the Third Extraordinary Session, 2022.**

### **Key Points:**

- Act 622 requires school districts that have an SRO to have an MOU based on the model created by DESE. The requirements of the MOU are included in these rules.
- Act 622 further requires an officer serving as an SRO and the administration in the building where the SRO is located, to have specific and on-going training to understand the role and responsibilities of an SRO. These training requirements are specified in the rules.
- Act 648 requires school districts to conduct comprehensive school safety audits every three years. These rules identify what a comprehensive audit includes and how compliance with all requirements will be verified.

*\*Highlighted portion added after initial approval.*

**DIVISION OF ELEMENTARY AND SECONDARY EDUCATION**  
**RULES GOVERNING SCHOOL SAFETY**  
**EMERGENCY RULE Effective December 2022**

**1.00 REGULATORY AUTHORITY**

1.01 The State Board of Education enacts these rules pursuant to its authority as set forth in Ark. Code Ann. §§ 6-10-121, 6-10-128, 6-11-105, 6-15-1302, 6-15-1303, 6-17-113, and 25-15-201 et seq., and Acts 622 and 648 of 2021.

**2.00 DEFINITIONS**

2.01 “Arkansas Center for School Safety” is the state school-safety clearinghouse administered by the Criminal Justice Institute (CJI) of the University of Arkansas System, through a partnership between CJI and the Arkansas Department of Education, Division of Elementary and Secondary Education (Division), and provides education, training, resources, and technical assistance to Arkansas educators and law enforcement professionals to assist them in meeting the school-safety needs of students in Arkansas public schools and providing them with a safe school environment.

2.02 “Public school district” means:

2.02.1 A geographic area that qualifies as a taxing unit for purposes of ad valorem property taxes under Ark. Code Ann. § 26-1-101 et seq. and Arkansas Constitution, Article 14, § 3, and is either:

2.02.1.1 Governed by an elected board of directors; or

2.02.1.2 Under the administrative control of the State Board or the Commissioner of Education in place of an elected board of directors; or

2.02.2 An open-enrollment public charter school, as defined in Ark. Code Ann. § 6-23-103.

2.03 “School Resource Officer” means sworn law enforcement personnel whose primary duties are not solely supervisory, and institutional law enforcement officers as described in Ark. Code Ann. § 6-13-1701 et seq.

2.04 “Superintendent” means the person responsible for oversight of all operations of the public school district as defined in these rules or other educational entity.

2.05 “Youth Mental Health First Aid” is a course, certified by the National Council for Mental Wellbeing, that teaches how to identify, understand, and respond to signs of mental illnesses and substance use and provides the skills needed to reach out and



provide initial help and support to someone who may be developing or experiencing a mental health issue or substance use problem or experiencing a crisis.

### **3.00 SCHOOL SAFETY AUDIT, EMERGENCY RESPONSE DRILLS, AND FLOOR PLANS**

3.01 A public school district shall conduct a comprehensive school safety assessment every three (3) years to assess the safety, security, accessibility, and emergency preparedness of district buildings and grounds in collaboration with local law enforcement, fire, and emergency management officials.

3.01.1 A comprehensive school safety assessment shall be conducted by more than one (1) individual, including at least one (1) individual who is not assigned to the facility being audited, if the audit is conducted by district personnel.

3.01.2 A comprehensive school safety assessment shall include without limitation an assessment of the following:

3.01.2.1 Safety and security of the site and exterior of buildings;

3.01.2.2 Access control;

3.01.2.3 Safety and security of the interior of buildings;

3.01.2.4 Monitoring and surveillance, including without limitation type and extent;

3.01.2.5 Communication and information security;

3.01.2.6 Review of emergency operation plans; and

3.01.2.7 School climate and culture.

3.01.3 The initial comprehensive school safety assessment shall be conducted by August 1, 2024.

3.01.4 The superintendent shall submit written verification, as required by the Division, that the assessment has been completed and conducted in collaboration with local law enforcement and emergency management officials.

3.02 A public school district shall conduct an annual lockdown drill for a possible threat on campus at each school in the public school district.

3.02.1 As part of the public school district's planning for lockdown drills, the public school district shall:

- 3.02.1.1 Assess the plan and ability of the public school district or open-enrollment charter school to prevent and respond to a threat on campus;
- 3.02.1.2 Identify the roles and responsibilities of each individual when an emergency occurs;
- 3.02.1.3 Discuss the logistics of responding to an emergency on the school campus;
- 3.02.1.4 Identify areas in which the emergency operation plan of the school may require modification, if necessary; and
- 3.02.1.5 Collaborate with local law enforcement and emergency management officials.
- 3.03 All public schools shall conduct tornado safety drills not less than three (3) times per year.
- 3.04 Public schools located in areas susceptible to earthquakes shall conduct earthquake safety drills.
- 3.05 All public schools shall conduct one fire drill each month during the school year.
- 3.06 Emergency response drills may be conducted during the instructional day or during noninstructional time periods as determined by the school district.
- 3.07 The superintendent, or designee, shall submit data required by the Division during the appropriate cycle to verify that drills were completed and submit written verification, as required by the Division, that collaboration with local law enforcement and emergency management officials occurred when required.
- 3.08 A public school district shall provide current floor plans and pertinent emergency contact information to appropriate first responders for each school in the district.
  - 3.08.1 Public school district administration shall provide updated information annually and when substantial building modifications or changes are made.
  - 3.08.2 Information provided under this subsection is not a public record and is not available for public inspection.
  - 3.08.3 The superintendent shall submit written verification, as required by the Division, that the floor plans and information were provided to appropriate first responders.

#### **4.00 SCHOOL RESOURCE OFFICERS**

- 4.01 A school district board of directors, or entity authorized to act on behalf of an open-enrollment public charter school, that accepts a school resource officer shall

enter into a memorandum of understanding (MOU) with the local law enforcement agency with jurisdiction, or adopt policies and procedures if the school district has an institutional law enforcement officer as described by Ark. Code Ann. 6-13-1701 et seq., that governs the school resource officer.

4.01.1 The MOU shall be based on the model MOU created by the Division and the Arkansas Center for School Safety, and include without limitation:

4.01.1.1 The financial responsibilities of each party;

4.01.1.2 The chain of command;

4.01.1.3 The process for the selection of school resource officers;

4.01.1.4 The process for the evaluation of school resource officers;

4.01.1.5 The training requirements for school resource officers; and

4.01.1.6 The roles and responsibilities of school resource officers, including without limitation:

4.01.1.6.1 Clarification of the school resource officer's involvement in student discipline;

4.01.1.6.2 The use of physical restraints or chemical sprays;

4.01.1.6.3 The use of firearms on the public school campus or at school-sponsored events; and

4.01.1.6.4 Making arrests on the public school campus or at school-sponsored events.

4.02 A school resource officer assigned to a public school or open-enrollment public charter school campus during the instructional day or employed by a public school district shall obtain the following:

4.02.1 A forty-hour basic school resource officer training program developed and provided, or approved, by the Arkansas Center for School Safety, within eighteen (18) months of being assigned or employed by the public school district;

4.02.2 Certification in Youth Mental Health First Aid, within eighteen (18) months of being assigned or employed by the public school district, which shall be renewed every four (4) years;

4.02.3 A sixteen-hour school resource officer refresher training developed and provided, or approved, by Arkansas Center for School Safety, within five

(5) years of receiving the initial basic school resource officer training described in 4.02.1, and every five (5) years thereafter; and

4.02.4 Twelve (12) hours of public school-specific continuing education developed and provided, or approved, by the Arkansas Center for School Safety, annually.

4.02.5 The forty-hour basic school resource officer training required by 4.02.1 shall address, without limitation, the roles and responsibilities of school resource officers in public schools, laws that are specific to public schools and students in public schools, and adolescent behavior and development.

4.02.6 The Youth Mental Health First Aid certification required by 4.02.2 and the school resource officer refresher training required by 4.02.3 shall count towards the twelve (12) hours of public school-specific continuing education required by 4.02.4 for the years during which those trainings are completed.

4.02.7 A school resource officer who is assigned by a public school district for only extracurricular activities is exempt from these training requirements.

4.03 A public school district superintendent and public school principal who accept a school resource officer or employ an institutional law officer as defined by Ark. Code Ann. § 6-13-1701 shall complete a one-hour training developed and provided, or approved, by the Arkansas Center for School Safety, within nine (9) months of accepting or employing the school resource officer.

4.04 Public school district personnel directly responsible for supervising a school resource officer shall complete a one-hour school resource officer roles and responsibilities training developed and provided, or approved, by the Arkansas Center for School Safety, within one (1) year of accepting or employing the school resource officer and every two (2) years thereafter.

4.05 Training received by a licensed educator under 4.03 and 4.04 may count towards the professional development required for renewal of an educator's license by the Division's Rules Governing Professional Development.

4.06 The Arkansas Center for School Safety shall monitor compliance with the continuing education and training requirements required by law and these rules.

4.06.1 A public school district that accepts a school resource officer or employs an institutional law officer shall comply with requests for information from the Arkansas Center for School Safety or Division for purposes of ensuring compliance with applicable law or rules.

4.06.2 A school resource officer who fails to complete any training required under this section shall be unable to serve as a school resource officer until the training required is complete.

4.06.3 A school resource officer shall not be assigned to a public school district in which the superintendent, principal, or supervising personnel, have not completed the training required.

## **5.00 DUTY TO REPORT**

5.01 Whenever the principal or other person in charge of a public school has personal knowledge or has received information leading to a reasonable belief that any person has committed or has threatened to commit an act of violence or any crime involving a deadly weapon on school property or while under school supervision, the principal or person in charge shall immediately report the incident or threat to the superintendent of the school district and the appropriate local law enforcement agency.

5.01.1 The report shall be by telephone or in person immediately after the incident or threat and shall be followed by a written report within three (3) business days.

5.01.2 The principal shall notify any school employee or other person who initially reported the incident that a report has been made to the appropriate law enforcement agency.

5.01.3 The superintendent, or his or her designee, shall notify the local school district board of directors of any report made to law enforcement pursuant to these rules.

5.02 Upon receipt of a report from the prosecuting attorney, required to be provided within thirty (30) calendar days after receipt of the file, the principal shall notify any school employee or any other person who initially reported the incident that a report has been received from the prosecuting attorney.

5.03 Any person who purposely fails to make a report as required by Ark. Code Ann. § 6-17-113 and these rules shall be guilty of a Class C misdemeanor.

5.03.1 Purposely failing to report a violent act requires proof that:

5.03.1.1 The person had personal knowledge that an act of violence or any crime involving a deadly weapon has been committed or threatened;

5.03.1.2 A reasonable person would have reported the act or threat; and

5.03.1.3 The person who failed to report had a conscious object to disregard his obligation to report.

## **6.00 SCHOOL SAFETY FUNDS**

- 6.01 It is the intent of the General Assembly that funds set aside for school safety grants be disbursed by the Division of Elementary and Secondary Education (“Division”) to public school districts, open-enrollment charter schools, and other educational entities, to aid in implementing the recommendations of the Governor’s School Safety Commission as set forth in the 2018 and 2022 Final Reports and providing a safe school environment for students and staff.
- 6.02 Any funds allocated by the General Assembly for school safety grants or otherwise provided through a grant to a public school district, open-enrollment charter school, or educational entity, by the Division, for the purpose of school safety, shall be disbursed pursuant to the process and eligibility requirements established by the Division and in accordance with applicable state and federal laws and rules.
- 6.03 The process for disbursement and eligibility requirements established shall adhere to the following:
- 6.03.1 Funding should be made available to each public school district, open-enrollment charter school, and private school with at least 50 students.
  - 6.03.2 The amount of funding available to each public school district, open-enrollment charter school, and private school, shall be based, at least in part, on student enrollment, taking into consideration the varying sizes of districts and schools.
  - 6.03.3 All funds shall be provided on a reimbursement basis for eligible expenses incurred during the fiscal year in which the funds are made available.
  - 6.03.4 Eligible expenses shall include the purchase of materials, equipment, or services, to meet the recommendations of the Governor’s School Safety Commission or enhance existing safety measures that meet the recommendations of the Commission.
    - 6.03.4.1 The Division shall prioritize, by category, level, or similar, all recommendations of the Commission that should be completed by a public school district, open-enrollment charter school, or educational entity.
    - 6.03.4.2 Expenses for a safety measure not included in the recommendations of the Commission, shall only be eligible for reimbursement upon approval from the Commissioner of Education.
  - 6.03.5 The superintendent, as defined in these rules, must provide written assurance that higher priority recommendations are complete, or in process to be completed, before receiving funds for subsequent priority recommendations or safety measures not included in the recommendations of the Commission.

6.03.5.1 Expenses for safety measures incurred prior to December 1, 2022, may be reimbursed upon verification of expenditure even if all higher priority recommendations have not been completed, upon approval from the Commissioner of Education.

Emergency Clause

Whereas, the safety of students, teachers and the general public in Arkansas schools is of the utmost importance;

Whereas, it is immediately necessary to provide a funding mechanism to immediately address safety in Arkansas schools;

Whereas, Act 3 of the Third Extraordinary Session, 2022, appropriated to the Department of Education, funds for School Safety grants for the fiscal year ending June 30, 2023;

Whereas, Act 3 of the Third Extraordinary Session, 2022, requires that the Department promulgate rules for the distribution of School Safety grant funds;

Whereas, Act 3 of the Third Extraordinary Session, 2022, requires these rules to be approved by Legislative Council prior to the disbursement of any funds;

THEREFORE, the State Board of Education hereby determines pursuant to Ark. Code Ann. § 25-15-204 that immediate peril to the welfare of Arkansas public schools will result without the immediate promulgation of these rules to become effective December 2022.

State of Arkansas

Call Item 2

93rd General Assembly

# A Bill

Third Extraordinary Session, 2022

SENATE BILL 2

By: Senators Irvin, Hickey, J. English, Bledsoe, Flipppo, K. Hammer, J. Hendren, Hill, B. Johnson, D. Sullivan

By: Representatives Cozart, Evans, Shepherd, Barker, Beaty Jr., M. Berry, Bragg, Breaux, Brooks, Brown, Cavanaugh, Christiansen, Cloud, Coleman, C. Cooper, Crawford, Dalby, Eaves, Eubanks, D. Ferguson, C. Fite, L. Fite, M. Gray, Haak, Hollowell, Jean, Jett, L. Johnson, Ladyman, Lundstrum, Lynch, Maddox, J. Mayberry, McClure, McGrew, McNair, Milligan, Perry, Pilkington, Ray, Richmond, Rye, Scott, Slape, B. Smith, S. Smith, Speaks, Tosh, Vaught, Wardlaw, Warren, Watson, Wing, Wooten

## For An Act To Be Entitled

AN ACT TO MAKE AN APPROPRIATION FOR SCHOOL SAFETY GRANTS FOR THE DEPARTMENT OF EDUCATION, AND TO TRANSFER SURPLUS FUNDS TO CREATE A HOLDING ACCOUNT FOR THE SCHOOL SAFETY SET-ASIDE OR CONTINGENCY VOTE 3/5 SET-ASIDE FOR THE FISCAL YEAR ENDING JUNE 30, 2023; AND FOR OTHER PURPOSES.

## Subtitle

AN ACT FOR THE DEPARTMENT OF EDUCATION - SCHOOL SAFETY GRANTS APPROPRIATION AND SCHOOL SAFETY SET-ASIDE OR CONTINGENCY VOTE 3/5 SET-ASIDE FOR THE 2022-2023 FISCAL YEAR.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. APPROPRIATION - SCHOOL SAFETY GRANTS. There is hereby appropriated, to the Department of Education, to be payable from the Division of Elementary and Secondary Education Fund Account, for School Safety grants by the Department of Education - School Safety grants for the fiscal year ending June 30, 2023, the following:





1		
2	ITEM	FISCAL YEAR
3	NO.	2022-2023
4	(01) SCHOOL SAFETY GRANTS	<u>\$50,000,000</u>

5

6 SECTION 2. DO NOT CODIFY. TEMPORARY LANGUAGE. (a) Immediately upon the  
 7 effective date of this act, a new sub-fund within the Restricted Reserve Fund  
 8 shall be established as the "School Safety Set-Aside or Contingency Vote 3/5  
 9 Set-Aside".

10 (b) (1) The Department of Education shall not begin the process of  
 11 promulgating rules for the distribution of funds in the School Safety Set-  
 12 Aside or Contingency Vote 3/5 Set-Aside until authorized by Legislative  
 13 Council.

14 (2) The department shall not disburse any funds in the School Safety  
 15 Set-Aside or Contingency Vote 3/5 Set-Aside until the rules have been  
 16 approved by Legislative Council.

17 (c) Notwithstanding other provisions of law, the Chief Fiscal Officer of  
 18 the State may from time to time transfer on his or her books and those of the  
 19 Treasurer of State and the Auditor of State funds from the Restricted Reserve  
 20 Fund School Safety Set-Aside or Contingency Vote 3/5 Set-Aside after  
 21 receiving prior approval of the greater of three-fifths (3/5) of the quorum  
 22 present or a majority of the membership of the Legislative Council or, if the  
 23 General Assembly is in session, the Joint Budget Committee, for the  
 24 Department of Education to distribute funds for the School Safety Grant  
 25 program, as approved in this section as set out in subsection (b) herein, or  
 26 for the distribution of funds from this set-aside for unanticipated state  
 27 needs.

28 (d)(1) The General Assembly finds:

29 (A) Determining the maximum amount of appropriation and funding for a  
 30 state agency or institution each fiscal year is the prerogative of the  
 31 General Assembly;

32 (B) Determining the maximum amount of appropriation and funding for a  
 33 state agency or institution is usually accomplished by delineating the  
 34 maximum amounts in the appropriation acts for the state agency or institution  
 35 and in the general revenue allocations authorized for each relevant fund and  
 36 fund account by amendment to the Revenue Stabilization Law, § 19-5-101 et

1 seq.; and

2 (C) The Restricted Reserve Fund has established procedures for the  
3 transfer of funds to various funds and fund accounts for the efficient and  
4 effective operation of state government.

5 (2)(A) It is necessary and appropriate that the General Assembly  
6 maintain oversight by requiring prior approval of the Legislative Council or,  
7 if the General Assembly is in session, the Joint Budget Committee, as  
8 provided in § 19-5-1263(c).

9 (B) The requirement of approval by the Legislative Council or, if the  
10 General Assembly is in session, the Joint Budget Committee, is not a  
11 severable part of § 19-5-1263.

12 (C) If the requirement of approval by the Legislative Council or, if  
13 the General Assembly is in session, the Joint Budget Committee, is ruled  
14 unconstitutional by a court of competent jurisdiction, § 19-5-1263(c)-(e) are  
15 void in their entirety.

16  
17 SECTION 3. DO NOT CODIFY. TEMPORARY LANGUAGE. FUNDING TRANSFER.  
18 Immediately upon the effective date of this act the Chief Fiscal Officer of  
19 the State shall transfer on his or her books and those of the State Treasurer  
20 and the Auditor of State, a sum of fifty million dollars (\$50,000,000) from  
21 the General Revenue Allotment Reserve Fund to the School Safety Set-Aside or  
22 Contingency Vote 3/5 Set-Aside sub-fund in the Restricted Reserve Fund.

23 The provisions of this section shall be in effect only from July 1,  
24 2022 through June 30, 2023.

25  
26 SECTION 4. COMPLIANCE WITH OTHER LAWS. Disbursement of funds  
27 authorized by this act shall be limited to the appropriation for such agency  
28 and funds made available by law for the support of such appropriations; and  
29 the restrictions of the State Procurement Law, the General Accounting and  
30 Budgetary Procedures Law, the Revenue Stabilization Law, the Regular Salary  
31 Procedures and Restrictions Act, or their successors, and other fiscal  
32 control laws of this State, where applicable, and regulations promulgated by  
33 the Department of Finance and Administration, as authorized by law, shall be  
34 strictly complied with in disbursement of said funds.

35  
36 SECTION 5. LEGISLATIVE INTENT. It is the intent of the General

1 Assembly that any funds disbursed under the authority of the appropriations  
2 contained in this act shall be in compliance with the stated reasons for  
3 which this act was adopted, as evidenced by the Agency Requests, Executive  
4 Recommendations and Legislative Recommendations contained in the budget  
5 manuals prepared by the Department of Finance and Administration, letters, or  
6 summarized oral testimony in the official minutes of the Arkansas Legislative  
7 Council or Joint Budget Committee which relate to its passage and adoption.  
8

9 SECTION 6. EMERGENCY CLAUSE. It is found and determined by the General  
10 Assembly of the State of Arkansas that the safety of students, teachers and  
11 the general public in Arkansas schools or other unanticipated state needs is  
12 of the utmost importance; that funds designated to improve and enhance school  
13 safety or other unanticipated state needs be made available; and that this  
14 act is immediately necessary to provide a funding mechanism to immediately  
15 address safety in Arkansas schools or other unanticipated state needs.  
16 Therefore, an emergency is declared to exist, and this act being immediately  
17 necessary for the preservation of the public peace, health, and safety shall  
18 become effective on:

19 (1) The date of its approval by the Governor;

20 (2) If the bill is neither approved nor vetoed by the Governor,  
21 the expiration of the period of time during which the Governor may veto the  
22 bill; or

23 (3) If the bill is vetoed by the Governor and the veto is  
24 overridden, the date the last house overrides the veto.  
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27 **APPROVED: 8/11/22**  
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**STATE OF ARKANSAS  
BUREAU OF  
LEGISLATIVE RESEARCH**

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**Memorandum**

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**TO:** Members, ALC – Executive Subcommittee

**CC:** Marty Garrity, Director, Bureau of Legislative Research;  
Rebecca Miller-Rice, Administrator, Administrative Rules Review Section,  
Legal Services Division

**FROM:** Jason Kearney, Legislative Attorney, Administrative Rules Review Section,  
Legal Services Division

**DATE:** December 6, 2022

**SUBJECT:** Legal Authorization for the Emergency Promulgation of Proposed Division of  
Elementary and Secondary Education Rules Governing School Safety

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The Arkansas Department of Education's Division of Elementary and Secondary Education seeks legislative review and approval of the emergency promulgation of its Rules Governing School Safety. These rules incorporate Acts 622 and 648 of 2021 and the requirements for a comprehensive school safety audit and a Memorandum of Understanding with the local law enforcement agency, and they govern the distribution of school safety grant funds set aside by Act 3 of the Third Extraordinary Session, 2022.

Pursuant to Arkansas Code Annotated § 6-10-128(c)(3), as amended by Act 622 of 2021, the Division shall promulgate rules specifying how the adoption of a memorandum of understanding or policies and procedures governing a school resource officer shall be verified. Further authority for the rulemaking can be found at Ark. Code Ann. § 6-15-1303(a)(4), as amended by Act 648 of 2021, § 2, which provides that the Division shall promulgate rules specifying how the completion of a comprehensive school safety audit and confirmation of collaboration with local law enforcement and emergency management officials shall be verified. Additionally, the Division shall promulgate rules describing how the completion of annual lockdown drills and confirmation of collaboration with local law enforcement and emergency management

officials shall be verified. *See* Ark. Code Ann. § 6-15-1303(b)(3), as amended by Act 648, § 2. The Division shall further promulgate rules describing how public school compliance with Ark. Code Ann. § 6-15-1303(c)(1) and (2), as amended by Act 648, § 2, concerning the provision of current floor plans and pertinent emergency contact information to appropriate first responders, will be verified. *See* Ark. Code Ann. § 6-15-1303(c)(4), as amended by Act 648, § 2. Finally, the State Board of Education shall promulgate rules to ensure uniform compliance with the requirements of Ark. Code Ann. § 6-17-113, concerning the duty to report and investigate student criminal acts, and shall consult with the Office of the Attorney General concerning the development of the rules. *See* Ark. Code Ann. § 6-17-113(e). The Division has indicated that it did consult with the Attorney General concerning the development of these emergency rules.

With respect to the distribution of school safety grant funds, Act 3 of 2022, § 2(b)(1), states that the Department shall not begin the process of promulgating rules for the distribution of funds in the School Safety Set-Aside or Contingency Vote 3/5 Set-Aside until authorized by Legislative Council. That authorization was granted by the Legislative Council at its meeting of October 21, 2022. The Act goes on to state that the Department shall not disburse any funds in the School Safety Set-Aside or Contingency Vote 3/5 Set-Aside until the rules have been approved by Legislative Council. *See* Act 3 of 2022, § 2(b)(2).