

## DEPARTMENT OF PUBLIC SAFETY, DIVISION OF LAW ENFORCEMENT STANDARDS & TRAINING

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**SUBJECT:** Commission on Law Enforcement Standards and Training Rules (CLEST) Rules

**DESCRIPTION:** CLEST's proposed legislation passed the General Assembly as Act 218 of 2021. The changes to state law through Act 218 are addressed throughout the proposed rule changes. Other changes made or proposed during the 2021 session of the General Assembly are addressed in the proposed rule changes.

In an effort to conform CLEST Rules to the format proposed for the Code of Arkansas Rules established by Act 662 of 2019, technical changes are being made throughout the rules to ensure a smooth transition of rules into the new code. Examples of technical corrections include clarification of proper punctuation; merging rules containing similar content; changing "him" or "her" to "them" and "they;" ensuring proper use of defined terms; and removing unnecessary or repetitive information.

- Rule 1000

- CLEST Rule 1024 has been incorporated into this rule.
- Technical corrections and rule cleanup.

- Rule 1001

- Update to define "annually" as the January-December calendar year. This is relevant to CLEST Rule 1002 that requires officers to complete 24 hours of continuing education "annually." This change is to clarify confusion about whether annual means the calendar year or a rolling 12-month period.
- Technical corrections and rule cleanup.
- Deleted defined terms not used in the rule.

- Rule 1002

- Act 792 of 2021 requires law enforcement officers to complete duty-to-intervene training annually. CLEST Rule 1002 is being updated to include this requirement in minimum standards.
- 1002 is also being updated to increase the minimum hours of annual racial profiling training for law enforcement officers. This change comes following a recommendation from the Task Force to Advance the State of Law Enforcement in Arkansas to increase the required training to 4 hours annually.
- During the 2021 legislative session, House Bills 1333 and 1342 were filed to allow Marshallese citizens eligibility for certification as a law enforcement officer. Because Marshallese citizens are not eligible for United States citizenship, they are not eligible for certification under current CLEST rules. Following a partnership with local agencies and legislative sponsors, CLEST Rule 1002 is being amended to allow a narrow exception to the citizenship requirement for Marshallese citizens.

- Technical corrections and rule cleanup. (Section (7), related to failure or removal from the basic training academy, has been moved to CLEST Rule 1005.)
- All language in Rule 1006 has been incorporated into this rule.
  
- Rule 1003
  - Technical corrections and cleanup.
  
- Rule 1004
  - Repeal/reserve. All language has been moved to Rule 1009.
  
- Rule 1005
  - CLEST Rule 1005 is being updated to clarify the requirements of a law enforcement officer following failure or dismissal from basic law enforcement training courses.
  - Technical corrections and rule cleanup.
  
- Rule 1006
  - Repeal/reserve. All language has been moved to Rule 1002.
  
- Rule 1007
  - Technical corrections and rule cleanup.
  - All language in Rule 1019 has been incorporated into this rule.
  
- Rule 1008
  - Technical corrections and rule cleanup.
  
- Rule 1009
  - CLEST Rule 1009 is being updated to clarify the requirements for a law enforcement officer to obtain an intermediate certificate. This is not a change required by legislation; however, recent confusion regarding requirements has necessitated a change to provide clarity going forward.
  - Technical corrections and rule cleanup.
  - All language in Rule 1004 has been incorporated into this rule.
  
- Rule 1010
  - Technical corrections and rule cleanup.
  
- Rule 1011
  - Technical corrections and rule cleanup.
  
- Rule 1012
  - Technical corrections and rule cleanup.
  
- Rule 1013
  - Technical corrections and rule cleanup.

- Rule 1014
  - CLEST Rule 1014 is being updated following a recommendation from the Task Force to Advance the State of Law Enforcement in Arkansas. The Task Force recommended that the following criteria be included in the training requirements for field training officer certification: Communication Skills, Implicit Bias, Ethics, Duty to Intervene, Cultural Competency, De-Escalation, and Crisis Intervention Training.
  - Technical corrections and rule cleanup.
  
- Rule 1015
  - Technical corrections and rule cleanup.
  
- Rule 1016
  - CLEST Rule 1016 is being updated to allow the Commission discretion in accepting military police experience in lieu of or in addition to the law enforcement experience requirement for certification as a CLEST instructor. This is not a change required by specific legislation; however, in an ongoing effort to support the military community, CLEST believes that military police experience should be reviewed and accepted at the discretion of the Commission.
  - Technical corrections and rule cleanup.
  
- Rule 1017
  - Technical corrections and rule cleanup.
  - All language in Rule 1018 has been incorporated into this rule.
  
- Rule 1018
  - Repeal/reserve. All language has been moved to Rule 1017.
  
- Rule 1019
  - Repeal/reserve. All language has been moved to Rule 1007.
  
- Rule 1020
  - Technical corrections and rule cleanup.
  
- Rule 1021
  - Technical corrections and rule cleanup.
  
- Rule 1022
  - All language in Rule 1023 has been incorporated into this rule.
  - Technical corrections and rule cleanup.
  
- Rule 1023
  - Repeal/reserve. All language has been moved to Rule 1022.
  
- Rule 1024
  - Repeal/reserve. All language has been moved to Rule 1000.

- Rule 1025
  - Technical corrections and rule cleanup.
- Rule 1026
  - Technical corrections and rule cleanup.
- Rule 1027
  - Technical corrections and rule cleanup.
- Rule 1028
  - Technical corrections and rule cleanup.
- Rule 1032
  - Updated annual training requirements to be consistent with state law and Rule 1002.
  - Technical corrections and rule cleanup.
- Rule 1033
  - Technical corrections and rule cleanup.
- Rule 1034
  - CLEST Rule 1034 is being updated pursuant to Act 218 of 2021 to include updated reasons for an officer's decertification, to now include excessive force and dishonesty/untruthfulness.
  - Technical corrections and rule cleanup.

**PUBLIC COMMENT:** No public hearing was held on these proposed rules. The public comment period expired on November 5, 2021. The agency indicated that it received no public comments.

The proposed effective date is January 1, 2022.

**FINANCIAL IMPACT:** The agency indicated that this rule does not have a financial impact.

**LEGAL AUTHORIZATION:** The Arkansas Commission on Law Enforcement Standards (CLEST), located within the Department of Public Safety, is tasked with establishing minimum selection and training standards, courses of study, and basic training requirements for law enforcement personnel and minimum requirements for instructors. *See* Ark. Code Ann. § 12-9-104(3), (7)(B)-(D). CLEST may promulgate rules for the administration of these duties. *See* Ark. Code Ann. § 12-9-104(1)(A). These rules implement Acts 218 and 792 of 2021.

Act 218, sponsored by Representative Carol Dalby, concerned law enforcement agency organization, staffing, and personnel matters. Act 792, sponsored by Representative

Justin Boyd, required training concerning a law enforcement officer's duty to intervene when the officer observes the use of excessive force by another law enforcement officer.

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

DEPARTMENT/AGENCY Arkansas Department of Public Safety  
DIVISION Division on Law Enforcement Standards and Training  
DIVISION DIRECTOR Jami Cook  
CONTACT PERSON Amanda Yarbrough  
ADDRESS 4 State Police Plaza Drive, Little Rock, AR 72209  
PHONE NO. (501) 682-4750 FAX NO. (501)682-1582 E-MAIL Amanda.yarbrough@arkansas.gov  
Jami Cook, Brad King, Amanda Yarbrough  
NAME OF PRESENTER AT COMMITTEE MEETING  
PRESENTER E-MAIL Amanda.yarbrough@arkansas.gov

**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.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Donna K. Davis  
Administrative Rules Review Section  
Arkansas Legislative Council  
Bureau of Legislative Research  
One Capitol Mall, 5<sup>th</sup> Floor  
Little Rock, AR 72201

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1. What is the short title of this rule? CLEST Rules
2. What is the subject of the proposed rule? Required changes following the 2021 legislative session
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. N/A
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? N/A  
When does the emergency rule expire? N/A

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 regulation.

N/A

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.

Some of the language in CLEST Rules is being incorporated into other rules, however, CLEST is not repealing any existing rule numbers.

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."**

**SEE ATTACHED SUMMARY**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. 12-9-101 et seq.

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

Clarification of CLEST Rules and to implement changes from the 2021 legislative session

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).

dps.arkansas.gov/law-enforcement/clest

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

Unknown – Following the expiration of  
Date: the public comment period

Time: 10:00 a.m.

Place: CLEST

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

Approximately August 31, 2021 – To be determined

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

January 1, 2022

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.



N/A - Will provide when appropriate

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

N/A – Will file with SOS and ASL at the appropriate time

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. N/A



**FINANCIAL IMPACT STATEMENT**

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT** Department of Public Safety

**DIVISION** Division on Law Enforcement Standards and Training

**PERSON COMPLETING THIS STATEMENT** Amanda Yarbrough

**TELEPHONE** (501) 682-4750 **FAX** (501) 682-1582 **EMAIL:** Amanda.yarbrough@arkansas.gov

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

**SHORT TITLE OF THIS RULE** CLEST Rules

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;  
N/A

(b) The reason for adoption of the more costly rule;  
N/A

(c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;  
N/A

(d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.  
N/A

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**

General Revenue	<u>N/A</u>
Federal Funds	<u>N/A</u>
Cash Funds	<u>N/A</u>
Special Revenue	<u>N/A</u>
Other (Identify)	<u>N/A</u>
<b>Total</b>	<u>N/A</u>

**Next Fiscal Year**

General Revenue	<u>N/A</u>
Federal Funds	<u>N/A</u>
Cash Funds	<u>N/A</u>
Special Revenue	<u>N/A</u>
Other (Identify)	<u>N/A</u>
<b>Total</b>	<u>N/A</u>

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

**Current Fiscal Year**

General Revenue	<u>N/A</u>
Federal Funds	<u>N/A</u>
Cash Funds	<u>N/A</u>
Special Revenue	<u>N/A</u>
Other (Identify)	<u>N/A</u>
Total	<u>N/A</u>

**Next Fiscal Year**

General Revenue	<u>N/A</u>
Federal Funds	<u>N/A</u>
Cash Funds	<u>N/A</u>
Special Revenue	<u>N/A</u>
Other (Identify)	<u>N/A</u>
Total	<u>N/A</u>

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**

\$ 0

**Next Fiscal Year**

\$ 0

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**

\$ 0

**Next Fiscal Year**

\$ 0

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.





State of Arkansas  
Governor Asa Hutchinson



**DIVISION OF LAW ENFORCEMENT  
STANDARDS AND TRAINING**

JAMI COOK  
SECRETARY

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East Camden, AR 71711  
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4 State Police Plaza Drive  
Little Rock, AR 72209  
(501) 682-2260 FAX: (501) 682-1582

ALETA-NORTHWEST  
3424 South Downum Road  
Springdale, AR 72762  
(479) 361-3416 FAX: (479) 361-3412

JAMI COOK  
DIRECTOR

**Rule Change Summary 2021**

CLEST's proposed legislation passed the General Assembly as Act 218 of 2021. The changes to state law through Act 218 are addressed throughout the proposed rule changes. Other changes made or proposed during the 2021 session of the General Assembly are addressed in the proposed rule changes.

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• **Rule 1000**

- CLEST Rule 1024 has been incorporated into this rule.
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• **Rule 1001**

- Update to define "annually" as the January-December calendar year. This is relevant to CLEST Rule 1002 that requires officers to complete 24 hours of continuing education "annually." This change is to clarify confusion about whether annual means the calendar year or a rolling 12-month period.
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• **Rule 1002**

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  - Repeal/reserve. All language has been moved to Rule 1009.
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  - Technical corrections and rule cleanup.
- **Rule 1021**
  - Technical corrections and rule cleanup.
- **Rule 1022**
  - All language in Rule 1023 has been incorporated into this rule.
  - Technical corrections and rule cleanup.
- **Rule 1023**
  - Repeal/reserve. All language has been moved to Rule 1022.
- **Rule 1024**
  - Repeal/reserve. All language has been moved to Rule 1000.
- **Rule 1025**
  - Technical corrections and rule cleanup.
- **Rule 1026**
  - Technical corrections and rule cleanup.
- **Rule 1027**



- Technical corrections and rule cleanup.
- **Rule 1028**
  - Technical corrections and rule cleanup.
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  - Technical corrections and rule cleanup.
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  - CLEST Rule 1034 is being updated pursuant to Act 218 of 2021 to include updated reasons for an officer's decertification, to now include excessive force and dishonesty/untruthfulness.
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