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COMMISSION FOR ARKANSAS PUBLIC SCHOOL ACADEMIC FACILITIES AND TRANSPORTATION
RULES GOVERNING THE ACADEMIC FACILITIES DISTRESS PROGRAM
March 16, 2010

1.00 AUTHORITY

~~1.01~~—The Commission for Public School Academic Facilities and Transportation’s authority for promulgating these Rules is pursuant to Ark. Code Ann. §§ ~~6-21-114, 6-21-804, 6-21-811, 6-21-812, 25-15-201 et seq., and Acts 989 and 996 of 2007, and Acts 798 and 1473 of 2009.~~ Act 933 of 2019.

~~1.02~~—These Rules shall be known as the Commission for Arkansas Public School Academic Facilities and Transportation Rules Governing the Academic Facilities Distress Program and will replace any former rules Governing the Academic Facilities Distress Program previously adopted

2.00 PURPOSE

~~2.01~~—The purpose of these Rules is to establish how the Arkansas Division of Public School Academic Facilities and Transportation (Division) and Commission for Arkansas Public School Academic Facilities and Transportation will evaluate, assess, identify, and address those school districts in academic facilities distress.

3.00 DEFINITIONS

For the purposes of these Rules, the following terms mean:

3.021 "Commission" – ~~the~~ The Commission for Arkansas Public School Academic Facilities and Transportation.

3.032 "Commissioner" – ~~the~~ The Commissioner of Elementary and Secondary Education.

3.043 "Division" – ~~the~~ The Arkansas Division of Public School Academic Facilities and Transportation.

3.044 "Academic-Facilities Distress status" – a A public school or school district ~~determined by the Division~~ classified by the Commission as being identified in academic facilities distress pursuant to Ark. Code Ann. § 6-21-811.

3.05 "Facilities Improvement Plan," or ("Plan") – ~~an~~ An improvement plan developed by a school district for a public school or school district as a result of having been identified classified as being in academic facilities distress that supplements the district's facilities master plan by:

- a.) 3.05.1 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 in the school district; and
 - b.) 3.05.2 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.
- 3.06 “Material Failure” – ~~an~~ An act so significant as to jeopardize any academic facility used by a public school or school district or any other condition of an academic facility or facilities in a public school or school district that is determined by the Division to have a detrimental impact on educational services provided by that public school or school district.
- 3.07 “Nonmaterial Failure” – ~~an~~ An act such that the failure to immediately intervene and correct the act or remedy the cause of the act could develop into a “~~Material—Failure~~”: material failure.
- 3.08 "Reconstitution" – ~~the~~ The reorganization of the administrative unit or the governing school board of a school district, including, but not limited to, the replacement or removal of a current superintendent or the removal or replacement of a current school board or both.
- 3.09 "School District" – ~~a~~ 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.
- 3.0910 “School District Systems” – The operations and procedures that occur within a public school district, including without limitation:
- 3.10.1 Academics;
 - 3.10.2 Facilities and Transportation;
 - 3.10.3 Human Capital;
 - 3.10.4 District Operations and Fiscal Governance;
 - 3.10.5 Student Support Services; and
 - 3.10.6 Stakeholder Communication/Family and Community Engagement.

3.4011 "State Board" – ~~the~~ The Arkansas State Board of Education.

4.00 PROCESS AND PROCEDURE FOR THE ~~IDENTIFICATION~~ CLASSIFICATION OF DISTRICTS IN ACADEMIC FACILITIES DISTRESS

4.01 The Commission shall ~~identify~~ classify a public school or school district as being in academic facilities distress if the Division recommends and the Commission concurs that the public school or school district has engaged in actions or inactions that result in:

4.01.1 Any act or violation determined by the Division to jeopardize any academic facility used by a public school or school district, including, but not limited to:

~~a.4.01.1.1~~ Material failure to properly maintain academic facilities in accordance with state law and Rules adopted by the Commission;

~~b.4.01.1.2~~ Material violation of local, state, or federal fire, health, or safety code provisions or laws;

~~e.4.01.1.3~~ Material violation of applicable building code provisions or laws;

~~d.4.01.1.4~~ Material failure to provide timely and accurate facilities master plans to the Division;

~~e.4.01.1.5~~ Material failure to comply with state law governing purchasing, ~~or~~ bid requirements, or school construction-related laws or rules in relation to academic facilities projects;

~~f.4.01.1.6~~ Material default on any school district debt obligation; or

~~g.4.01.1.7~~ Material failure to plan and progress satisfactorily toward accomplishing the priorities established by the Division and the approved school district master plan; and

4.01.2 Any other condition of an academic facility or facilities in a public school or school district that is determined by the Division to have a detrimental impact on educational services provided by that public school or school district.

4.02 The Division shall provide written notice, via certified mail, return receipt requested, to the president of the school board and the superintendent of the ~~public school or school district identified or containing~~ a school identified by the Division as being in facilities distress.

5.00 SUBMISSION OF FACILITIES IMPROVEMENT PLAN AND DIVISION AUTHORITY

- 5.01—~~A public school district will be required to submit a facilities improvement plan within thirty (30) days after being notified by the Division to do so if the district: (a) effective February 1, 2008, failed to apply for state funding under the Academic Facilities Partnership Program for necessary facilities to meet adequacy requirements, and was notified by the Division of any deficiencies; (b) having been identified as being in facility distress; or (c) during its biennial review of school district's master plans, beginning February 1, 2009, the Division determines whether the progress of each school district complies with the district's facilities master plan and notifies the district of any noncompliance.~~
- 5.02—~~If the Division does not approve the facilities improvement plan submitted by the school district, it shall identify the school district as being in facilities distress.~~
- 5.03—~~A public school or school district identified as being in facilities distress shall develop a facilities improvement plan within thirty (30) days from the date of receipt of the notice and promptly submit the facilities improvement plan to the Division for review and approval.~~
- 5.04—~~A public school or school district shall review and revise its facilities improvement plan on a periodic basis as determined by the Division and submit the updated facilities improvement plan to the Division in order for the Division to determine whether the public school or school district is correcting its deficient areas of practice regarding academic facilities.~~
- 5.05—~~A school district shall use facilities improvement plans as necessary to supplement and update its facilities master plan.~~
- 5.06—~~A public school or school district in facilities distress may petition the Commission for removal from facilities distress status only after the Division has certified in writing that the public school or school district has corrected all criteria for being classified as in facilities distress and has complied with all Division recommendations and requirements for removal from facilities distress.~~
- 5.07—~~The Division shall submit a written evaluation on the status of each district in facilities distress to the Commission and the State Board at least once every six (6) months.~~
- 5.01 A public school or school district classified by the Commission as being in facilities distress shall develop a facilities improvement plan within thirty (30) days from the date of classification and promptly submit the plan to the Division for review and approval.
- 5.01.1 A public school or school district shall review and revise its facilities improvement plan on a periodic basis as determined by the Division and submit the updated facilities improvement plan to the Division in order for

the Division to determine whether the public school or school district is correcting its deficient areas of practice regarding academic facilities.

5.01.2 A school district shall use the facilities improvement plan as necessary to supplement and update its facilities master plan.

5.02 A public school or school district in facilities distress may petition the Commission for removal from facilities distress status only after the Division has certified in writing to the Commission and school district that *the public school or school district*:

5.02.1 *The public school or school district has Has* corrected all criteria that caused the classification of facilities distress; and

5.02.2 ~~The Commission determines that the school district has corrected all issues that caused the classification of facilities distress.~~ *Has complied with all Division recommendations and requirements for removal from facilities distress status.*

5.03 The Division shall submit a written evaluation of the status of each school and school district classified in facilities distress to the Commission and State Board at least once every six (6) months.

5.04 Every two (2) years, the Division shall:

5.04.1 Determine whether the progress of each school district complies with the school district's facilities master plan and shall notify a school district of any non-compliance; and

5.04.2 Review the applications made for the Academic Facilities Partnership Program to identify any school district that did not apply for state funding for necessary facilities to meet adequacy requirements and shall notify the school district of any deficiencies.

5.05 Within thirty (30) days of receiving the notice provided under Section 5.04.1 or 5.04.2, the school district shall submit a facilities improvement plan to the Division for review and approval that states how the school district will address the noncompliance issues contained in the notice.

5.06 If the Division does not approve the facilities improvement plan submitted by the school district, it shall identify the school district as being in facilities distress.

5.07 A school district may appeal a Division facilities distress identification to the Commission by filing an appeal in accordance with the Commission's Rules Governing Appeals from Determinations of the Division.

5.08 If a school district is identified classified as being in facilities distress and has immediate repairs, growth or suitability improvement issues, the Division, in addition to any other remedy under these Rules and Ark. Code Ann. §§ 6-21-811

and 6-21-812, may provide a loan to the school district to be repaid from any funds available that are not required to provide an adequate education.

5.08.1 Funds available that are not required to provide an adequate education include:

5.08.1.1 Fund balances and any cash on hand that are not part of foundation funding or categorical funding under Ark. Code Ann. § 6-20-2305 and are not otherwise required to provide an adequate education for students in the public school district;

5.08.1.2 Revenues that are not obligated on bonds; and

5.08.1.3 Funds remaining after the annual payment on a bond obligation are included in funds that are not required to provide an adequate education.

5.08.2 The public school district shall repay the loan on the schedule determined by the Division.

6.00 FAILED MILLAGES

6.01 ~~Within ten (10) days of a school district's failure to pass a millage required to fulfill~~ A public school district whose millage election, necessary to fulfill its obligations under its master plan, fails to pass will be provided written notice by the Division shall provide written notice to the school district of the date, time, and place for a conference with the school district at which the Division will; ~~within ten (10) days from the date of the election, to meet for a conference with the Division to determine whether as a result of the failed millage there are facilities issues relating to:~~

6.01.1 ~~Determine whether as a result of the failed millage there are facilities issues relating to immediate repairs, the presence and number of suitability needs of public school academic facilities, or immediate need for academic facilities to meet student growth; and Immediate repairs under~~ Ark. Code Ann. § 6-20-2504(b)(4);

6.01.2 ~~Presence and number of suitability needs of public school academic facilities and;~~

6.01.3 ~~Immediate needs for facilities to meet student growth.~~

6.02 ~~6.01.2~~ Thoroughly discuss and explain At the conference the sanctions and requirements that are available to the Commission if the school district or a school within the district is identified classified by the Commission as being in facilities distress under Ark. Code Ann. §§ 6-21-811 and 6-21-812 ~~will be thoroughly discussed and explained.~~

- 6.032 The written notice required under Section 6.01 of these Rules shall be provided via certified mail to the president of the school board and the superintendent of the school district.
- 6.043 If the Commission ~~it~~ determines that there are ~~existing~~ immediate repairs, growth, or suitability issues that require expedited attention, the Commission may direct the school district to conduct a special election to vote on a millage increase.
- 6.043.1 The special election shall ~~only~~ include only those issues that are mutually agreed upon between the Division and the school district.
- 6.043.2 The special election date ~~will~~ shall be mutually agreed to by the Division and the school district and ~~will~~ shall not be later than seven (7) months after the date of the election at which the millage failed. ~~(Unless unless it is necessary to extend the date an extension beyond seven (7) months is necessary because of restrictions on the number of elections that may be held within a calendar year.)~~
- 6.05 If within ninety (90) days from the notice provided to the district pursuant to Section 6.01 of these Rules, the school district has not set an election date, the Division shall identify the school district as being in facilities distress.
- 6.06 A public school district able to finance the immediate repairs, growth, and suitability improvements determined to exist by the Commission without the necessity of a special election on increasing its millage may enter into an agreement with the Division, ~~to fund its improvements separately; which the agreement shall include a timeframe~~ timeframes for completion.
- 6.07 ~~A public school district which fails to implement the agreement stated above, within the specified time frame, shall be identified by the Division as being in facilities distress. The Division shall identify the school district as being in facilities distress for failure to implement the agreed upon plan for immediate repairs, growth, and suitability improvements within the timeframe specified in the agreement.~~

7.00 PRIOR APPROVAL OF DEBT

- 7.01 ~~No school district identified by the Division or classified by the Commission as being in facilities distress may incur any debt without the prior written approval of the Commission.~~

8.00 ~~DIVISION AUTHORITY OVER PUBLIC SCHOOLS AND SCHOOL DISTRICTS IN ACADEMIC FACILITIES DISTRESS CLASSIFICATION~~

- ~~8.01~~ When a school district is ~~identified~~ classified by the Commission to be in facilities distress, the Division may, with the approval of the Commission:

- ~~8.01.1~~ Provide on-site technical evaluation and assistance and make recommendations to the district superintendent regarding the care and maintenance of any academic facility in the district. Any school district identified classified as being in facilities distress status shall accept on-site technical evaluation and assistance from the Division. The written recommendations of the Division are binding on the district, the superintendent, and the school board;
- 8.01.2 Require the superintendent to relinquish all administrative authority with respect to the school district; Remove permanently, reassign, or suspend on a temporary basis the superintendent of the school district, and
- ~~8.02.1~~ ~~8.01.3~~ Appoint an individual in place of the superintendent to administratively operate the school district under the supervision and approval of the Commissioner *of Education*;
- ~~8.02.2.~~ ~~8.01.4~~ Direct the school district to compensate from school district funds the individual appointed to operate the school district; Compensate the individual operating the school district from school district funds; and
- ~~8.02.3~~ Authorize the individual to remove, replace, reassign, or suspend public school district personnel in accordance with state law;
- 8.03 ~~8.01.5~~ Suspend or remove some or all of the current board of directors and call for the election of a new school board for the school district, in which case the school district shall reimburse the county board of election commissioners for election costs as otherwise required by law;
- 8.04 Remove on a temporary basis some or all of the powers and duties granted to the current public school district board of directors under Ark. Code. Ann. § 6-13-620 or any other applicable law but allow the public school district board of directors to continue to operate under the direction and approval of the Commissioner.
- 8.04.1 The Commission shall defined the powers and duties of the public school district board of directors under this section.
- 8.04.2 The public school district board of directors shall act in an advisory capacity to the Commissioner with respect to all other powers and duties maintained by the Commissioner;
- 8.05 ~~8.01.6~~ Require the school district to operate without a local school board under the supervision of the local superintendent or ~~8.01.7~~ Require the school district to operate without a local school board under the supervision of an individual or panel appointed by the Commissioner;

- 8.06 Waive the application of Arkansas law or the corresponding State Board of Education or Commission rules with the exception of:
 - 8.06.1 The Teacher Fair Dismissal Act of 1983, Ark. Code Ann. § 6-17-1501 et seq.;
 - 8.06.2 The Public School Employee Fair Hearing Act, Ark. Code Ann. § 6-17-1701 et seq.;
 - 8.06.3 Special education programs as provided in Title 6 of the Arkansas Code;
 - 8.06.4 Conducting criminal background checks for employees as provided in Title 6 of the Arkansas Code; and
 - 8.06.5 Health and safety codes as established by the State Board, the Commission, and local governmental entities;
- 8.07 In the absence of a school district board of directors, direct the Commissioner to assume all authority of the board of directors as may be necessary for the day-to-day governance of all school district systems;
- 8.08 Requires reassignment of some or all of the administrative, instructional, or support staff of a public school;
- 8.09 Require reorganization, closure, or dissolution of one (1) or more of the public schools within the classified school district;
- 8.10 ~~8.04.8~~ Return the administration of the school district to the former board of directors, or place the administration of the school district in a newly elected school Board, of directors (with the school district to reimburse election costs) if:
 - 8.10.1 The Division certifies in writing to the Commission and to the school district that the school district has corrected all issues that caused the classification of facilities distress and the school district has not experienced any additional indicators of facilities distress; and
 - 8.10.2 The Commission determines the school district has corrected *all issues* that caused the classification of facilities distress;
- 8.11 ~~8.04.9~~ Require school district staff and employees to attend training in areas of concern for the public school or school district;
- 8.12 ~~8.04.10~~ Require a school district to cease all expenditures related to activities not described as part of an adequate education in Ark. Code Ann.

§ 6-20-2302 and place money that would have been spent on the activities into an academic facilities escrow account to be released only upon approval by the Division for use in conjunction with a local academic facilities project. School districts shall include a clause addressing this contingency in all contracts with personnel who are involved with activities not described as part of an adequate education;

- 8.13 ~~8.01-11~~ Notify the public school or school district in writing that the deficiencies regarding academic facilities shall be corrected within a time period designated by the Division;
- 8.14 Petition the State Board at any time for the consolidation, annexation, or reconstitution of a school district in facilities distress or take other appropriate action as allowed by law in order to secure and protect the best interest of the educational resources of the state or to provide for the best interests of students in the district;
- 8.15 ~~8.01-12~~ Correct the failure of the school district to complete its agreed plan or to pass the millage in the special election as described in Section ~~6-02~~ 6.00 of these Rules by contracting for and completing the necessary improvements under the agreed plan;
- 8.16 If the academic facilities in the public school district in facilities distress are inadequate to provide an adequate education, recommend that the State Board dissolve the school district and transfer students to public schools in other public school districts;
- 8.17 ~~8.01-13~~ Take any other action allowed by law that is deemed necessary to assist a public school or school district in ~~removing criteria of facilities distress, correcting the issues that caused the classification of facilities distress, to secure and protect the best interest of the educational resources of the state, or to provide for the best interest of students in the school district.~~

9.00 STATE BOARD/DIVISION/COMMISSION AUTHORITY

- 9.01 Upon consideration of a Division petition under Section 8.14 of these Rules, The Division may, with the approval of the Commission, petition the State Board at any time for the consolidation, annexation, or reconstitution of a school district in facilities distress, or to take other appropriate action as allowed by law in order to secure and protect the best interest of the educational resources of the state or to provide for the best interests of students in the school district. 9.02 The the State Board may approve the petition *and or* take other appropriate action as allowed by law. The State Board may take any other action allowed by law that is deemed necessary to assist a public school or school district in removing criteria of facilities distress.

9.02 ~~9.03~~ The State Board shall consolidate, annex, or reconstitute any school district that fails to remove itself from the classification of a school district in facilities distress within ~~two (2)~~ five (5) consecutive school years of ~~receipt of notice of identification of facilities distress status by the Division.~~ classification of facilities distress status.

9.02.1 The State Board may grant additional time for a public school or school district to remove itself from facilities distress by issuing a written finding supported by a majority of the State Board explaining in detail that the public school or school district could not remove itself from facilities distress during the relevant time period due to impossibility caused by external forces beyond the control of the public school or school district.

9.03 ~~9.04~~ If the State Board elects to dissolve the school district and transfer students to public schools in other public school districts, ~~the Division recommends and the Commission concurs that the academic facilities in the public school district in facilities distress are inadequate to provide an adequate education, the State Board may dissolve the district and transfer students to public schools in other public school districts.~~ 9.04.1 The State Board shall assign the public school district's territory, property and debt.

9.04 Nothing in Ark. Code Ann. § 6-21-811 prevents the Division, Commission, or State Board from taking any of the actions listed in that section at any time to address a public school or public school district in facilities distress.

10.00 APPEAL PROCESS

~~10.01~~ A school district may appeal any determination of the Division to the Commission by ~~submitting that appeal commensurate filing an appeal in accordance with Commission's Rules Governing Commission Appeals from Determinations of the Division, dated March 2008.~~

11.00 SCHOOL CHOICE AND ACADEMIC FACILITIES DISTRESS

11.01 Any student attending a public school district classified as being in facilities distress shall automatically be eligible and entitled under the Arkansas Public School Choice Act of ~~1989~~ 2015, Ark. Code Ann. § ~~6-18-206~~ 6-18-1901 et seq., to transfer to another ~~geographically contiguous~~ school district not in facilities distress during the time period that a district is classified as being in facilities distress.

11.02 The student is not required to file a petition to transfer by ~~July 1~~ May 1 but shall meet all other requirements and conditions of the Arkansas Public School Choice Act of ~~1989~~ 2015, Ark. Code Ann. § ~~6-18-206~~ 6-18-1901 et seq.

~~11.02~~ 11.03 The resident district shall pay the cost of transporting the student from the resident district to the nonresident district.

~~11.03~~ 11.04 The nonresident district shall count the student for average daily membership purposes.

12.00 INSPECTIONS

- 12.01 The Division shall conduct random unannounced on-site inspections of all academic facilities ~~that have been funded wholly or in part by moneys from the state~~ to ensure compliance with the school district's facilities master plan and, if applicable, the school district's facilities improvement plan, in order to preserve the integrity of and extend the useful life of public school academic facilities and equipment across the state.
- 12.02 The Division shall submit reports regarding its on-site inspections of academic facilities to the Commission within thirty (30) days of completion of the on-site inspections.
- 12.03 Based on the Division's on-site inspection or notification by the Division to the Commission that the changes or additions to a school district's facilities master plan or facilities improvement plan required by the Division have not been implemented within the time period prescribed by the Division, the Commission shall restrict the use of the necessary funds or otherwise allocate funds from moneys appropriated by the General Assembly.

13.00 EARLY INDICATORS OF FACILITY DISTRESS

- 13.01 By August 31 of each year, the Division shall notify the superintendent of a school district if the Division is aware the school district has experienced two (2) or more indicators of facilities distress in one (1) school year that the Division deems to be nonmaterial, but that without intervention could place the district in facilities distress.
- 13.02 By August 31 of each year, the superintendent of a school district shall report to the Division if the superintendent is aware the school district has experienced two (2) or more indicators of facilities distress in one (1) school year that the superintendent deems to be nonmaterial, but that without intervention could place the district in facilities distress.
- 13.03 The Division and the superintendent shall review all data related to the nonmaterial indicators of facilities distress.
- 13.03.1 Within thirty (30) days of the Division's determination that the school district may be experiencing facilities distress at a nonmaterial level, the Division shall provide a notice to the school district's superintendent and board of directors that:
- 13.03.1.1 Describes the nonmaterial indicators of facilities distress that could have a detrimental impact on educational

services provided by the affected public school or the school district if not addressed; and

13.03.1.2 Identifies the support available from the Division to address each nonmaterial indicator of facilities distress.

13.03.2 The board of directors shall place on the agenda for the next regular scheduled meeting of the board of directors a discussion of the notice of nonmaterial indicators of facilities distress.

13.04 If any condition of an academic facility raises a significant health or safety issue, the superintendent of the school district where the academic facility is located or the person responsible for the management of the academic facility shall immediately notify the Division and the board of directors of the school district.

13.04.1 The board of directors shall place on the agenda for the next regularly scheduled meeting of the board of directors a discussion of the notice of the significant health or safety issue.

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

As Engrossed: S3/26/19

A Bill

SENATE BILL 549

5 By: Senator J. English
6

For An Act To Be Entitled

8 AN ACT CONCERNING THE ARKANSAS PUBLIC SCHOOL ACADEMIC
9 FACILITIES PROGRAM ACT; TO AMEND PROVISIONS OF THE
10 ARKANSAS CODE WITH RESPECT TO PUBLIC SCHOOL ACADEMIC
11 FACILITIES; AND FOR OTHER PURPOSES.
12
13

Subtitle

15 TO AMEND PROVISIONS OF THE ARKANSAS CODE
16 WITH RESPECT TO PUBLIC SCHOOL ACADEMIC
17 FACILITIES.
18
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 SECTION 1. Arkansas Code § 6-21-808(c)(2)(B)(ii), concerning the use
23 of the computerized maintenance management system by a public school
24 district, is amended to read as follows:

25 (ii)(a) School districts shall ~~be required to~~
26 participate in any state-level computerized maintenance management system
27 designed to track work orders and preventative maintenance work established
28 by the Division of Public School Academic Facilities and Transportation at no
29 cost to the school district.

30 (b) The cost associated with additional
31 maintenance modules by a school district shall be at the expense of the
32 school district and may be within the nine-percent minimum maintenance
33 expenditures under subdivision (d)(1)(A) of this section.

34 (c) School district use of the computerized
35 management maintenance system under this subdivision (c)(2)(B)(ii) shall
36 include without limitation:



1 (1) Entering and tracking all reactive
2 and preventative maintenance work;

3 (2) Entering preventative maintenance
4 schedules for academic and non-academic facilities' systems;

5 (3) Documenting completed reactive and
6 preventative maintenance work; and

7 (4) Scheduling state-mandated
8 inspections as required under § 6-21-813(e);

9
10 SECTION 2. Arkansas Code § 6-21-811(g), concerning what actions the
11 Division of Public School Academic Facilities and Transportation may take
12 with respect to a public school district that is classified as in facilities
13 distress, is amended to read as follows:

14 (g) When a school district is classified by the commission to be in
15 facilities distress, the division may, with the approval of the commission:

16 (1)(A) Provide on-site technical evaluation and assistance and
17 make written recommendations to the school district superintendent regarding
18 the care and maintenance of any academic facility in the school district.

19 (B) Any school district classified as being in facilities
20 distress status shall accept on-site technical evaluation and assistance from
21 the division.

22 (C) The written recommendations of the division are
23 binding on the school district, the superintendent, and the board of
24 directors;

25 (2) Remove permanently, reassign, or suspend on a temporary
26 basis the superintendent of the school district, and:

27 (A) Appoint an individual in place of the superintendent
28 to administratively operate the school district under the supervision and
29 approval of the Commissioner of Education; and

30 (B) ~~Compensate from the individual operating the school~~
31 ~~district funds the individual appointed to operate the from school district~~
32 ~~funding; and~~

33 (C) Authorize the individual to remove, replace, reassign,
34 or suspend public school district personnel in accordance with state law;

35 (3) Suspend or remove some or all of the current board of
36 directors and call for the election of a new board of directors for the

1 school district, in which case the school district shall reimburse the county
2 board of election commissioners for election costs as otherwise required by
3 law;

4 (4)(A) Remove on a temporary basis some or all of the powers and
5 duties granted to the current public school district board of directors under
6 § 6-13-620 or any other applicable law but allow the public school district
7 board of directors to continue to operate under the direction and approval of
8 the commissioner.

9 (B) The commission shall define the powers and duties of
10 the public school district board of directors under this section.

11 (C) The public school district board of directors shall
12 act in an advisory capacity to the commissioner with respect to all other
13 powers and duties maintained by the commissioner;

14 ~~(4)(5)~~ Require the school district to operate without a board of
15 directors under the supervision of the superintendent or an individual or
16 panel appointed by the commissioner;

17 ~~(5)(6)~~ Waive the application of Arkansas law or the
18 corresponding State Board of Education or commission rules and regulations,
19 with the exception of:

20 (A) *The Teacher Fair Dismissal Act of 1983, § 6-17-1501 et*
21 *seq.; and*

22 (B) *The Public School Employee Fair Hearing Act, § 6-17-*
23 *1701 et seq.;*

24 (C) Special education programs as provided in this title;

25 (D) Conducting criminal background checks for employees as
26 provided in this title; and

27 (E) Health and safety codes as established by the state
28 board, the commission, and local governmental entities;

29 ~~(6)(7)~~ In the absence of a school district board of directors,
30 direct the commissioner to assume all authority of the board of directors as
31 may be necessary for the day-to-day governance of the school district;

32 (8) Require reassignment of some or all of the administrative,
33 instructional, or support staff of a public school;

34 (9) Require reorganization, closure, or dissolution of one (1)
35 or more of the public schools within the classified school district;

36 ~~(7)(A)(10)(A)~~ Return the administration of the school district

1 to the former board of directors or place the administration of the school
2 district in a newly elected board of directors if:

3 (i) The division certifies in writing to the
4 commission and to the school district that the school district has corrected
5 all issues that caused the classification of facilities distress and the
6 school district has not experienced any additional indicators of facilities
7 distress; and

8 (ii) The commission determines the school district
9 has corrected all issues that caused the classification of facilities
10 distress.

11 (B) If the division calls for an election of a new school
12 district board of directors, the school district shall reimburse the county
13 board of election commissioners for election costs as otherwise required by
14 law;

15 ~~(8)~~(11) Require school district staff and employees to attend
16 training in areas of concern for the public school or school district;

17 ~~(9)~~(A)(12)(A) Require a school district to cease all
18 expenditures related to activities not described as part of an adequate
19 education in § 6-20-2302 and place money that would have been spent on the
20 activities into an academic facilities escrow account to be released only
21 upon approval by the division for use in conjunction with a local academic
22 facilities project.

23 (B) School districts shall include a clause addressing
24 this contingency in all contracts with personnel who are involved with
25 activities not described as part of an adequate education;

26 ~~(10)~~(13) Notify the public school or school district in writing
27 that the deficiencies regarding academic facilities shall be corrected within
28 a time period designated by the division;

29 ~~(11)~~(A)(14)(A) Petition the state board at any time for the
30 consolidation, annexation, or reconstitution of a school district in
31 facilities distress or take other appropriate action as allowed by this
32 subchapter in order to secure and protect the best interest of the
33 educational resources of the state or to provide for the best interest of
34 students in the school district.

35 (B) The state board may approve the petition under
36 subdivision (g)(14)(A) of this section or take other appropriate action as

1 allowed by this subchapter.

2 (C) Except as set forth established in subdivision
3 ~~(g)(11)(D)~~ (g)(14)(D) of this section or subsection (n) of this section, the
4 state board shall consolidate, annex, or reconstitute any school district
5 that fails to remove itself from the classification of a school district in
6 facilities distress within five (5) consecutive school years of
7 classification of facilities distress status.

8 (D) The state board may grant additional time for a public
9 school or school district to remove itself from facilities distress by
10 issuing a written finding supported by a majority of the state board
11 explaining in detail that the public school or school district could not
12 remove itself from facilities distress during the relevant time period due to
13 impossibility caused by external forces beyond the control of the public
14 school or school district;

15 ~~(12)(15)~~ Correct the failure of a school district to complete
16 its agreed plan or to pass the millage in the special election under
17 subdivision (f)(2) of this section by contracting for and completing the
18 necessary improvements under the agreed plan;

19 ~~(13)(A)(16)(A)~~ If the ~~division recommends and the commission~~
20 ~~concurs that the academic facilities in the public school district in~~
21 ~~facilities distress are inadequate to provide an adequate education, academic~~
22 facilities in the public school district in facilities distress are
23 inadequate to provide an adequate education, recommend that the state board
24 may dissolve the school district and transfer students to public schools in
25 other public school districts.

26 (B) ~~The~~ If the state board elects to dissolve the school
27 district and transfer students to public schools in other public school
28 districts, the state board shall assign the public school district's
29 territory, property, and debt; and

30 ~~(14)(17)~~ Take any other action allowed by law that is deemed
31 necessary to assist a public school or school district in correcting the
32 issues that caused the classification of facilities distress, to secure and
33 protect the best interest of the educational resources of the state, or to
34 provide for the best interest of students in the school district.

35

36 SECTION 3. Arkansas Code § 6-21-811(m), concerning actions the

1 Commission for Arkansas Public School Academic Facilities and Transportation
2 may take with respect to public school districts in facilities distress, is
3 repealed.

4 ~~(m) If the division or commissioner assumes authority over a public
5 school district in facilities distress under subsection (g) of this section,
6 the commission may pursue the following process for returning a public school
7 district to the local control of its residents:~~

8 ~~(1) During the second full school year following the assumption
9 of authority, the commission shall determine the extent of the school
10 district's progress toward correcting all issues that caused the
11 classification of facilities distress;~~

12 ~~(2)(A) If the commission determines that sufficient progress has
13 been made by a school district toward correcting all criteria for being
14 classified as in facilities distress, but the school district has not yet
15 resolved all issues that caused the classification of facilities distress,
16 the commissioner, with the approval of the commission, may appoint a
17 community advisory board of either five (5) or seven (7) members to serve
18 under the supervision and approval of the commissioner.~~

19 ~~(B) The members of the community advisory board shall be
20 residents of the school district and shall serve on a voluntary basis without
21 compensation.~~

22 ~~(C) The Department of Education shall cause to be provided
23 to the community advisory board technical assistance and training in, at a
24 minimum, the areas required in § 6-13-629.~~

25 ~~(D) The duties of the community advisory board include
26 without limitation:~~

27 ~~(i) Meeting monthly during a regularly scheduled
28 public meeting with the state-appointed administrator regarding the progress
29 of the school or school district toward correcting all issues that caused the
30 classification of facilities distress;~~

31 ~~(ii) Seeking community input from the residents of
32 the school district regarding the progress of the school or school district
33 toward correcting all issues that caused the classification of facilities
34 distress;~~

35 ~~(iii) Conducting hearings and making recommendations
36 to the commissioner regarding personnel and student discipline matters as set~~

1 ~~forth in the appropriate district policies;~~

2 ~~(iv) Working to build community capacity for the~~
3 ~~continued support of the school district; and~~

4 ~~(v) Submitting quarterly reports to the commissioner~~
5 ~~and the commission regarding the progress of the school or school district~~
6 ~~toward correcting all issues that caused the classification of facilities~~
7 ~~distress.~~

8 ~~(E) The members of the community advisory board shall~~
9 ~~serve at the pleasure of the commissioner until;~~

10 ~~(i) The school district is returned to local control~~
11 ~~and a permanent school district board of directors is elected and qualified;~~
12 ~~or~~

13 ~~(ii) The state board, upon petition of the~~
14 ~~commission or division annexes, consolidates, or reconstitutes the school~~
15 ~~district pursuant to this title or under another provision of law;~~

16 ~~(3) By April 1 of each year following the appointment of a~~
17 ~~community advisory board pursuant to subdivision (m)(2) of this section, the~~
18 ~~commission shall determine the extent of the school district's progress~~
19 ~~toward correcting all criteria for being classified as in facilities distress~~
20 ~~and shall:~~

21 ~~(A) Allow the community advisory board to remain in place~~
22 ~~for an additional year;~~

23 ~~(B)(i) Return the school district to local control by~~
24 ~~calling for the election of a newly elected school district board of~~
25 ~~directors if:~~

26 ~~(a) The division certifies in writing to the~~
27 ~~commission and to the school district that the school district has corrected~~
28 ~~all issues that caused the classification of facilities distress; and~~

29 ~~(b) The commission determines the school~~
30 ~~district has corrected all issues that caused the classification of~~
31 ~~facilities distress.~~

32 ~~(ii) If the division or commission calls for an~~
33 ~~election of a new school district board of directors, the school district~~
34 ~~shall reimburse the county board of election commissioners for election costs~~
35 ~~as otherwise required by law; or~~

36 ~~(C) Petition the state board for the annexation,~~

1 consolidation, or reconstitution of the school district under this section;
2 and

3 ~~(4)(A) If the division, with the approval of the commission,~~
4 ~~calls for an election of a new school district board of directors pursuant to~~
5 ~~subdivision (g)(7) of this section, the commissioner, with the approval of~~
6 ~~the commission, may appoint an interim board of directors to govern the~~
7 ~~school district until a permanent school district board of directors is~~
8 ~~elected and qualified.~~

9 ~~(B) The interim board of directors shall consist of either~~
10 ~~five (5) or seven (7) members.~~

11 ~~(C) The members of the interim board of directors shall be~~
12 ~~residents of the school district and otherwise eligible to serve as board~~
13 ~~members under applicable law.~~

14 ~~(D) The members of the interim board of directors shall~~
15 ~~serve on a voluntary basis without compensation.~~

16
17 SECTION 4. Arkansas Code § 6-21-812(a)(2), concerning student
18 transfers under the Public School Choice Act of 2015 from a public school
19 district classified as being in facilities distress, is amended to read as
20 follows:

21 (2) The student is not required to file a petition to transfer
22 by June May 1 but shall meet all other requirements and conditions of the
23 Public School Choice Act of 2015, § 6-18-1901 et seq.

24
25
26 /s/J. English

27
28
29 **APPROVED: 4/12/19**