ARKANSAS COMMISSION FOR PUBLIC SCHOOL ACADEMIC FACILITIES AND TRANSPORTATION EMERGENCY AMENDMENT TO RULES GOVERNING PROPERTY INSURANCE REQUIREMENTS

April 11, 2007

1.00 REGULATORY AUTHORITY

1.01 The Arkansas Commission of Public School Academic Facilities and Transportation's authority for promulgating these Rules is pursuant to Ark. Code Ann. §§ 6-21-114, as amended by 2007 Ark. Acts No. 625 and 25-15-201 *et seq*.

2.00 PURPOSE

2.01 The purpose of these Rules is to establish the process, guidelines, and minimum recommended property, boiler, machinery, and extended coverage insurance requirements for all buildings, structures, facilities and business personal property owned by a school district.

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

3.01 "Actual Cash Value" – The cost of replacing damaged or destroyed property with comparable new property minus depreciation.

3.02 "Agreed Value" – The specified maximum amount of insurance that will be paid for a building or structure.

3.03 "Boiler and Machinery (Equipment Breakdown)" – This type of coverage covers loss and damage as a result thereof, resulting from the malfunction of boilers and machinery.

3.04 "Code Upgrade" – See "Ordinance and Law."

3.05 "Co-Insurance" – The amount of insurance a district must carry in order to be indemnified for the total dollar amount of the actual loss; not all policies have a Co-Insurance clause. No public school property eligible to receive facilities assistance listed in Section 4.02 of these Rules will be insured for less than 90% of replacement cost.

3.06 "Deductible" – The amount of loss paid by the insured per claim.

3.07 "Earth Movement (Earthquake)" – This type of insurance provides protection to insured property damaged as a result of earthquake, landslide, rockslide, mudslide, mud flow, earth rising, earth sinking, earth

collapsing, or collapse of sinkholes. This type of insurance coverage may be purchased as an optional coverage.

3.08 “Extra Expense” - Following a covered loss, this type of insurance coverage provides payment for cost above normal operating expenses for the facility prior to loss. Example, temporary facilities (portable classrooms), additional transportation costs and setup and utility costs after a building was damaged or destroyed and rendered unusable by a tornado or fire.

3.09 “Flood” – The rising, overflowing or breaking boundaries of rivers, lakes, streams, or similar waterways or man made bodies of water. Insurance coverage for flood damage may be purchased as an optional coverage.

3.10 “Instructional Materials” – Traditional books and trade books in printed and bound form; activity-oriented programs; manipulatives; hand-held calculators; hands-on materials; and technology-based materials that require the use of electronic equipment in order to be used in the learning process.

3.11 “In-Transit” – This type of insurance provides coverage while property is in due course of transit within the boundaries of the policy territory. Examples of items typically covered by this type of insurance coverage are: coverage for band instruments, uniforms and other school owned equipment if damaged or destroyed on an authorized field trip or school sponsored extra-curricular activity, or in transit under the authorization of the school district.

3.12 “Money and Securities” – This type of insurance provides coverage for losses incurred due to burglary and robbery only, but does not cover losses incurred due to theft by such means as embezzlement or deception. This type of coverage does not include valuable papers.

3.13 "New Construction" – Means any improvement to an academic facility and, if necessary, related areas such as the physical plant and grounds, that brings the state of condition or efficiency of the academic facility to a state of condition or efficiency better than the academic facility's original condition of completeness or efficiency. "New construction" includes additions to existing academic facilities and new academic facilities.

3.14 “Newly Acquired Property or Business Personal Property” – This type of insurance coverage is limited to a specified time frame. School districts covered by this type of insurance should inform their insurer 15 to 30 days prior to accepting new construction from the contractor.

3.15 “Ordinance and Law (Code Upgrade)” – A type of insurance designed to provide sufficient coverage to bring a damaged or destroyed building into compliance with current building code provisions that were not in effect when the building was originally constructed, as mandated by the International Building Code.

3.16 "Real property" – Means land and anything attached to or erected on it, excluding anything that may be severed without injury to the land.

3.17 "School district(s)" - 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.

3.18 “Stated Value” – See “Agreed Value.”

3.19 “Structures” – This term includes, but is not limited to, signs, light poles, bleachers, covered walks, fences.

3.20 “Terrorism” – Means activities against persons, organizations, or property that involve the threat or commission of violence or a dangerous act. Insurance coverage for damages caused by acts of terrorism may be purchased as an optional coverage.

3.21 “Transit” – See “In Transit.”

4.00 INSURANCE REQUIREMENTS

4.01 Each school district shall provide or acquire all Risk property coverage for direct physical loss of or damage to school district buildings, structures, and business personal property (contents).

4.02 Each school district shall ensure that coverage shall be provided for all school district buildings, structures, and business personal property at each described location and identified on a statement of values unless otherwise scheduled. Any school district building, structure or business personal property not insured for at least 90% of replacement cost shall not be eligible, for purposes of facility assistance, for any state facility funding assistance administered by the Arkansas Commission for Public School Academic Facilities and Transportation.

4.03 Coverage extensions for school district buildings, structures and business personal property shall include the following recommended minimums:
4.03.1 Extra Expense - $2,000,000 per occurrence

4.03.2 Law and Ordinance (Code Upgrade) - $1,000,000 per occurrence.
4.03.3 Property in Transit - $100,000 per occurrence.
4.03.4 Money and Securities - $5,000 per occurrence
4.03.5 Newly Acquired Buildings and Structures for 90 days - $1,000,000 per occurrence.
4.03.6 Newly Acquired Business Personal Property for 90 days - $500,000 per occurrence.
4.03.7 Boiler and Machinery – Broad Form

4.04 Optional coverage shall be considered for:
4.04.1 Earth Movement
4.04.2 Flood
4.04.3 Terrorism

4.05 Property, Boiler and Machinery and Extended Coverage insurers shall have an A.M. Best Rating of A-, Class FSC VIII or better.

4. 06 The Bid Requests from school districts to obtain insurance coverage meeting or exceeding the amounts set forth in these Rules shall be mailed to potential bidders at least 45 days prior to the inception date of the policy(s) in compliance with Arkansas state procurement law. *See* Ark. Code. Ann. §§ 19-11-101, *et seq.*

4.07 The following shall be included with the Request for Bid:
4.07.1 Statement of Values
4.07.2 Current Deductible
4.07.3 Loss History for the past 3 years
4.07.4 Address schedule of all district buildings and structures.

4.08 Total insured content values for all of the school district's properties shall equal or exceed 20% of the total building values.

4.09 Content values shall be based on the school district's latest inventory of assets, including those items not reported on Arkansas Public School Computer Network as well as furnishings that fall below the threshold for listing, as well as expendable items such as instructional materials and food products.

4.10 School Districts shall comply with insurance "statement of values" reporting requirements to the Division of Public School Academic Facilities and Transportation.

4.11 School Districts shall obtain written assurance from their insurance agent that school district buildings are insured to current replacement costs. Coverage for extra expense, law and ordinance, etc., as outlined in Section

4.03 shall be reviewed to determine what limits, if any, should be changed due to the size of the school district.

5.00 EMERGENCY

5.01 WHEREAS, the 86th Arkansas General Assembly enacted Act 625 that went into effect March 28, 2007; and

5.02 WHEREAS, Act 625 requires a Rule to be enacted to give instruction and guidance to school districts in their purchase of property insurance; and

5.03 WHEREAS, changes must become effective immediately to allow for the proper implementation of school district property insurance open bids;

5.04 THEREFORE, an EMERGENCY is declared to exist and the Arkansas Commission of Public School Academic Facilities and Transportation promulgates this emergency rule pursuant to the authority of Ark. Code Ann. § 25-15-204.

6.00 EFFECTIVE DATE

6.01 These emergency rules shall become effective immediately upon approval by the Arkansas Commission of Public School Academic Facilities and Transportation.