

**ARKANSAS DEPARTMENT OF EDUCATION
RULES AND REGULATIONS GOVERNING
DUTY TO REPORT STUDENT CRIMINAL ACTS
Revised August 9,1999**

1.00 Regulatory Authority

- 1.01 These regulations shall be known as Arkansas Department of Education regulations governing the duty of school principals or other persons in charge of a public school to report criminal acts.
- 1.02 The State Board of Education enacted these regulations pursuant to its authority under Ark. Code Ann. 6-17-113 (Supp. 1997), as amended by Act 1520 of 1999.

2.00 Purpose of Regulations

The purpose of these regulations is to provide guidelines under which schools will report all threats of violence or acts of violence on school property.

3.00 Definitions

For the purposes of these rules and regulations:

- 3.01 “Act of violence” means any violation of Arkansas law where a person purposely or knowingly causes, or threatens to cause death or serious physical injury to another person.
- 3.02 “Purposely” means a person acts purposely with respect to his conduct or a result thereof when it is his conscious object to engage in conduct of that nature or to cause such a result.
- 3.03 “Knowingly” means a person acts knowingly with respect to his conduct or the attendant circumstances when he is aware that his conduct is of that nature or that such circumstances exist. A person acts knowingly with respect to a result of his conduct when he is aware that it is practically certain that his conduct will cause such a result.
- 3.04 “Serious Physical Injury” means a physical injury that creates a substantial risk of death or that causes protracted disfigurement, protracted impairment of health, or loss or protracted impairment of the function of any bodily member or organ.
- 3.05 “Reasonably believes” or “reasonable belief” means the belief that an ordinary, prudent man would form under the circumstances in question and one not recklessly or negligently formed. A reasonable belief is not based solely on speculation, conjecture or rumor.
- 3.06 “Recklessly” means a person acts recklessly with respect to attendant circumstances or a result of his conduct when he consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of a nature and degree that disregard thereof constitutes a gross deviation from the standard of care that a reasonable person would

- observe in the actor's situation.
- 3.07 "Negligently" means a person acts negligently with respect to attendant circumstances or a result of his conduct when he should be aware of a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that the actor's failure to perceive it, considering the nature and purpose of his conduct and the circumstances known to him, involves a gross deviation from the standard of care that a reasonable person would observe in the actor's situation.
- 3.08 'Deadly weapon' means a firearm or anything manifestly designed, made or adapted for the purpose of inflicting death or serious physical injury, or adapted for the purpose of inflicting death or serious physical injury; or
- 3.08.1 Anything that in the manner of its use or intended use is capable of causing death or serious physical injury; and
- 3.08.2 'Firearm' means any device designed, made, or adapted to expel a projectile by the action of an explosive or any device readily convertible to that use, including such a device that is not loaded or lacks a clip or other component to render it immediately operable, and components that can readily be assembled into such a device.
- 3.09 "Threat" means a reasonable person would believe the actor could and would carry out the threatened behavior and a reasonable person would be placed in fear of his life or safety.
- 3.10 "Law enforcement officer" means any public servant vested by law with a duty to maintain public order or to make arrests for offenses. See Ark. Code Ann. 5-1-102(12) (Repl. 1997).
- 4.00 School Reporting Responsibility
- 4.01 The principal or designee who has personal knowledge or who has received information leading to a reasonable belief that any person has committed or threatened to commit an act of violence or any crime involving a deadly weapon on school property or while under school supervision/authority shall immediately report the incident to the superintendent or designee.
- 4.02 The principal or designee who has personal knowledge or who 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 shall report the incident to the superintendent or designee and the appropriate local law enforcement agency.
- 4.03 Behavior is considered to be a threat if a reasonable person would believe the actor could and would carry out the threatened behavior and if a reasonable person would be placed in fear of his life or safety.
- 4.04 The phrase "any crime involving a deadly weapon" requires the commission of a crime using a deadly weapon as previously defined. With the exception of firearms or items which are in and of themselves illegal, mere possession, without more, is not sufficient to trigger reporting requirements.

4.05 The superintendent, or his designee, shall notify the local school board of any report made to law enforcement under this section.

5.00 Guidelines for School Reporting

5.01 If a principal or designee has reason to believe that an incident has occurred that satisfies the provisions of these rules and regulations, the incident or threat must be reported to the superintendent and the appropriate local law enforcement agency.

5.02 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.

5.03 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.

5.04 Because a purposeful or knowing mental state is required of the person committing an act of violence, various factors should be considered. These should include but not be limited to:

5.04.1 The age of the person.

5.04.2 Developmental level of the person.

5.04.3 Past disciplinary problems, if any.

5.05 Possible defenses to criminal acts, such as self-defense or justification, may be considered when determining whether or not an offense must be reported.

5.06 In cases involving several persons, where appropriate and possible, assessing differing degrees of involvement is permissible with only the primary participants being reported.

5.07 Upon receipt of the report from the prosecuting attorney, 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.

6.00 Law Enforcement Responsibility

6.01 Upon receipt, the law enforcement officer shall immediately report the incident to the office of the prosecuting attorney and shall immediately initiate an investigation into the incident.

6.01.1 The investigation shall be conducted with all reasonable haste and, upon completion, shall be referred to the prosecuting attorney.

6.01.2 The prosecuting attorney shall implement the appropriate course of

6.01.2.1 The report shall state whether the investigation into the

6.01.2.2 Whether any charges have been filed, in either circuit or

6.01.2.3 The disposition of the case

7.00 Failure to Report

The statute carries a Class C misdemeanor penalty for any person who purposefully fails to report, as required by the statute.

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

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

7.01.2 That a reasonable person would have reported the act or threat, and

7.01.3 That the person who failed to report had a conscious object to disregard his obligation to report.

7.02 The maximum penalty for a Class C misdemeanor is thirty (30) days in jail and/or a fine of \$100.