

A.C.A. § 12-75-119

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*** CURRENT THROUGH THE 2011 REGULAR SESSION AND UPDATES ***
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Title 12 Law Enforcement, Emergency Management, And Military Affairs
Subtitle 5. Emergency Management
Chapter 75 Arkansas Emergency Services Act of 1973
Subchapter 1 -- General Provisions

A.C.A. § 12-75-119 (2011)

12-75-119. Statewide mutual aid system.

(a) (1) All emergency jurisdictions shall participate in the statewide mutual aid system, except as provided in subdivision (a)(2) of this section.

(2) (A) An emergency jurisdiction may elect not to participate in the statewide mutual aid system.

(B) In order to make the election, the governing body of the emergency jurisdiction shall enact a resolution declaring that the emergency jurisdiction elects not to participate in the statewide mutual aid system.

(C) The chief executive officer of the governing body shall provide a copy of the resolution to the Arkansas Department of Emergency Management within ten (10) days of the enactment of the resolution.

(b) Within its own emergency jurisdiction, a participating emergency jurisdiction shall:

(1) Identify potential problems and hazards that could affect the emergency jurisdiction using an identification system common to all participating emergency jurisdictions;

(2) Conduct joint planning, intelligence sharing, and threat assessment development with contiguous participating emergency jurisdictions;

(3) Conduct joint training exercises with contiguous participating emergency jurisdictions at least one (1) time every other year;

(4) Identify and inventory, at least annually, current services, equipment, supplies, personnel, and other resources related to planning, prevention, mitigation, and response and recovery

activities of the participating emergency jurisdiction; and

(5) Adopt and implement an incident management system consistent with Homeland Security Presidential Directive-5, as it existed on January 1, 2005.

(c) (1) The chief executive officer of the governing body of a participating emergency jurisdiction or his or her designee may request assistance from another participating emergency jurisdiction:

(A) To prevent, mitigate, or respond and recover from a local emergency declared under § 12-75-108; or

(B) To conduct joint training exercises.

(2) (A) A request for assistance may be made verbally or in writing.

(B) Verbal requests shall be followed with written confirmation as soon as practical.

(3) (A) A request for assistance is not required to be reported to the department in advance of or concurrent with the request.

(B) However, a request for assistance shall be reported to the department in writing as soon as practical.

(d) A participating emergency jurisdiction's obligation to provide assistance to another participating emergency jurisdiction with the prevention, mitigation, and response and recovery activities related to a declared emergency or training exercises is subject to the following conditions:

(1) There must be a local emergency declared under § 12-75-108 or a plan to conduct training exercises;

(2) A responding participating emergency jurisdiction may withhold its resources to the extent necessary to provide reasonable protection and services for its own emergency jurisdiction;

(3) (A) An emergency responder from a participating emergency jurisdiction responding to a request for assistance from another participating emergency jurisdiction shall remain under the command control of his or her home jurisdiction, including use of medical protocols, standard operating procedures, and other protocols and procedures identified by the department.

(B) However, for the duration of the assistance, the emergency responder shall be under the operational control of the participating emergency jurisdiction requesting assistance in accordance with the incident management system of that participating emergency jurisdiction; and

(4) (A) (i) Equipment and supplies belonging to a participating emergency jurisdiction

responding to a request for assistance from another participating emergency jurisdiction shall remain under the command control of the responding participating emergency jurisdiction.

(ii) However, for the duration of the assistance, the equipment and supplies shall be under the operational control of the participating emergency jurisdiction requesting assistance in accordance with the incident management system of that participating emergency jurisdiction.

(B) A participating emergency jurisdiction providing assistance may donate equipment, supplies, or any other kind of asset to another participating emergency jurisdiction.

(e) If an emergency responder holds a license, certificate, or other permit issued by a participating emergency jurisdiction or the state evidencing qualification in a professional, mechanical, or other skill and the assistance of the emergency responder is requested by a participating emergency jurisdiction, the emergency responder shall be deemed to be licensed, certified, or permitted in the participating emergency jurisdiction requesting assistance for the duration of the declared emergency or training exercises, subject to any limitations and conditions imposed by the chief executive officer of the governing body of the participating emergency jurisdiction receiving the assistance.

(f) (1) (A) A participating emergency jurisdiction receiving assistance under the statewide mutual aid system shall reimburse a participating emergency jurisdiction responding to a request for assistance for all expenses associated with providing the assistance other than regular salaries and benefits.

(B) A request for reimbursement shall be made in accordance with procedures developed by the Arkansas Homeland Security Advisory Group and adopted by the department as a rule under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(C) The department shall not provide reimbursement for expenses associated with training exercises except in accordance with applicable rules.

(2) (A) (i) If a participating emergency jurisdiction disagrees with another participating emergency jurisdiction regarding reimbursement, the participating emergency jurisdiction asserting the dispute shall notify in writing the chief executive officer of the governing body of the participating emergency jurisdiction with which the dispute exists.

(ii) The notification shall be sent by certified mail, return receipt requested.

(B) (i) The participating emergency jurisdictions involved in the dispute shall make every effort to resolve the dispute within thirty (30) days of receipt of the written notice by the noncomplaining participating emergency jurisdiction.

(ii) In the event that the dispute is not resolved within ninety (90) days of receipt of written notice of the dispute, either participating emergency jurisdiction may request binding arbitration.

(iii) Arbitration conducted under this subdivision (f)(2)(B) shall be conducted under the

commercial arbitration rules of the American Arbitration Association, as in effect on January 1, 2005.

(g) (1) An emergency responder who assists a participating emergency jurisdiction that is not the emergency responder's home emergency jurisdiction and who sustains injury or death in the course of, and arising out of, the emergency responder's employment is entitled to all applicable benefits normally available from the emergency responder's home emergency jurisdiction.

(2) An emergency responder may receive additional state benefits as provided by law for death in the line of duty.

(h) (1) All activities performed under this section are deemed to be governmental functions.

(2) (A) For the purposes of liability, an emergency responder acting under the operational control of a participating emergency jurisdiction requesting assistance is deemed to be an employee of the participating emergency jurisdiction requesting assistance and exercising operational control.

(B) Except in cases of willful misconduct, gross negligence, or bad faith, neither the participating emergency jurisdiction providing assistance nor its employees shall be liable for the death of or injury to persons or for damage to property when complying or attempting to comply with the request of a participating emergency jurisdiction for assistance under the statewide mutual aid system.

(i) This section shall not be construed to prohibit a participating emergency jurisdiction from entering into interjurisdictional agreements with one (1) or more other emergency jurisdictions or emergency services entities and shall not affect any other agreement to which an emergency jurisdiction may be a party.

HISTORY: Acts 1973, No. 511, § 12; 1985, No. 687, § 8; 1985, No. 978, § 8; A.S.A. 1947, § 11-1945; Acts 1993, No. 1049, § 7; 1999, No. 646, § 32; 2001, No. 1278, § 5; 2005, No. 1179, § 2.