

4. Construction of the school facilities project was not completed by July 18, 2000, unless short-term notes were issued. For purposes of this section, completed construction shall mean that the school facility has received all necessary approvals from the Department and the appropriate State or local construction official has issued a temporary or permanent certificate of occupancy pursuant to law for the school facility or a portion thereof.

(d) Debt service aid and grants obtained in accordance with EFCFA and this section shall be prospective and determined as follows:

1. The calculation of debt service payable shall be made pursuant to N.J.A.C. 6A:26-3.8;
2. No State debt service aid under N.J.S.A. 18A:7G-9 shall be provided for debt service payments made by a district prior to a determination of final eligible costs and calculation of the amount of State debt service aid payable to the district; and
3. Grant amounts shall be determined pursuant to N.J.S.A. 18A:7G-15 and these regulations, utilizing final eligible costs for the school facilities project as determined in this subchapter.

(e) The "issuance of debt" for the purpose of this subchapter shall include lease purchase agreements in excess of five years.

Amended by R.2001 d.367, effective October 1, 2001.
See: 33 N.J.R. 1809(a), 33 N.J.R. 3482(a).
Rewrote (a) and (b); in (c), inserted "for the school facilities project prior to July 18, 2000" following "issued debt" and substituted "subchapter" for "subsection" in the introductory paragraph; in (d), amended the N.J.A.C. reference.

SUBCHAPTER 14. WITHHOLDING OF STATE SUPPORT FOR NON-COMPLIANCE

6A:26-14.1 Withholding of State support for non-compliance

(a) Pursuant to N.J.S.A. 18A:55-2, the Commissioner shall direct the State Treasurer to withhold funds payable by the State from any district that fails to obey the law or the rules or directions of the State Board or the Commissioner. "Funds payable by the State" include State support under EFCFA. A failure to obey the rules includes non-compliance with this chapter. The non-compliance may either:

1. Constitute an event of default under the grant agreement between the Authority and the district for the district receiving State support under N.J.S.A. 18A:7G-15 and subject the district to reimbursement of State support under EFCFA and, if the district does not either reimburse such State support if required to do so or cure the

default, to a withholding of State support under EFCFA; or

2. In the case of a district receiving debt service aid under N.J.S.A. 18A:7G-9 or 10, subject the district to a withholding of State support under EFCFA.

(b) Pursuant to the supervisory authority vested in the Commissioner under N.J.S.A. 18A:4-23, the Commissioner shall enforce these rules by any means permitted by law, including, but not limited to, issuing an order to the district to show cause under N.J.A.C. 6A:3-3.1 why the reimbursement or withholding of State support should not be imposed.

(c) A district may appeal a final determination by the Commissioner of non-compliance with this chapter pursuant to N.J.A.C. 6A:26-16.1.

SUBCHAPTER 15. STATE SCHOOL FACILITIES DOCUMENTS

6A:26-15.1 Right-to-know requests

(a) Government records or records in connection with EFCFA that are in the Department's possession are subject to disclosure pursuant to P.L. 1963, c.73, as amended and supplemented, and the common law right to know, unless excluded under (b) below. "EFCFA government records" or "EFCFA records" include any paper, written or printed document, data processed or image processed document, information stored or maintained electronically or by sound recording or similar device, or any copy thereof, that has been made, maintained or kept on file by the Department.

(b) "EFCFA government records" or "EFCFA records" that are subject to production and disclosure in response to a right to known request to the Department do not include the following material in its possession: interagency or intra-agency deliberative material in connection with EFCFA. Excluded EFCFA material may include, but not be limited to, drafts, notes, memoranda, correspondence, charts and other work product related to contracts, plans, regulations, reports, and determinations that arise under EFCFA. "Excluded EFCFA material" may be stored or maintained in any of the ways EFCFA government records are stored or maintained, as described in (a) above.

Amended by R.2001 d.367, effective October 1, 2001.
See: 33 N.J.R. 1809(a), 33 N.J.R. 3482(a).

SUBCHAPTER 16. CERTIFIED EDUCATIONAL FACILITIES MANAGER

6A:26-16.1 Certified educational facilities manager

(a) Effective September 1, 2002, no person shall be employed by a district board of education to supervise build-

ings and grounds unless, pursuant to N.J.S.A. 18A:17-49 et seq., the candidate meets one of the following criteria:

1. Has completed a minimum of two years experience in the field of buildings and grounds supervision and has graduated from the New Jersey Educational Facility Management Program at Rutgers, the State University, as a certified educational facilities manager, or has graduated from an equivalent program offered at either a regionally accredited institution of higher education or an approved post-secondary institution located within or outside the State;

2. Is a code enforcement official licensed by the Department of Community Affairs and was serving as a supervisor of buildings and grounds on January 10, 2000; or

3. Has served as a supervisor of buildings and grounds in a district continuously for five years prior to September 1, 2002.

(b) Any applicant for certification as an educational facilities manager shall submit documentation to the Division demonstrating compliance with one of the above criteria in (a) above. After verifying compliance with one of the criteria in (a) above, the Division will issue an authorization to serve as an educational facilities manager to the applicant and add the applicant to a master list of certified educational facilities managers to be maintained by the Division.

(c) When a vacancy occurs in a position in which the duties of a supervisor of buildings and grounds are performed, a board may select, for a period not to exceed two years, and commencing on the date of the vacancy, a person who is not a certified educational facilities manager to perform on an interim basis the duties of a supervisor of buildings and grounds. At the expiration of the two year period, the board shall employ a person certified by the Division as an educational facilities manager to supervise its buildings and grounds.

SUBCHAPTER 17. APPEALS

6A:26-17.1 Appeals of Commissioner's determinations

(a) All appeals of final determinations made by the Commissioner pursuant to EFCFA and this chapter shall be to the New Jersey State Board of Education pursuant to N.J.A.C. 6A:4.

(b) Appeals arising from decisions of the Division of Facilities and Transportation of the Department of Education may be requested in writing, and an opportunity given for an informal hearing before the Assistant Commissioner or other designated official. Such written request for an informal hearing must be made within 30 days of the receipt of the Division's decision.

(c) In the event of an adverse decision after an informal hearing under (b) above, or if a district determines not to seek an informal hearing, a district may request, within 90 days of the decision of the Assistant Commissioner or the determination of the Division if an informal hearing is not sought, a formal hearing pursuant to N.J.S.A. 18A:6-9 and 18A:6-24 and N.J.A.C. 6A:3. Such hearings shall be governed by the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and 52:14F-1 et seq., as implemented by N.J.A.C. 1:1.

Amended by R.2001 d.367, effective October 1, 2001.

See: 33 N.J.R. 1809(a), 33 N.J.R. 3482(a).

Rewrote (a).

Petition for Rulemaking.

See: 34 N.J.R. 3868(a).