

## CHAPTER 26

### EDUCATIONAL FACILITIES

#### Authority

N.J.S.A. 18A:7G-5k, 18A:7G-13 and 18A:7G-26; P.L. 2000, c. 72  
(N.J.S.A. 18A:7G-15), P.L. 2007, c. 137 and P.L. 2008, c. 39.

#### Source and Effective Date

R.2007 d.81, effective February 9, 2007.  
See: 38 N.J.R. 4533(a), 39 N.J.R. 899(a).

#### Chapter Expiration Date

Chapter 26, Educational Facilities, expires on February 9, 2012.

#### Chapter Historical Note

Chapter 26, Educational Facilities, was adopted as R.2001 d.367, and Subchapter 2, Long-Range Facilities Plans, was recodified from N.J.A.C. 6:23-2, Subchapter 3, Capital Project Review, was recodified from N.J.A.C. 6:23A-2, Subchapter 11, County Vocational School District Facilities Rehabilitation Fund, was recodified from N.J.A.C. 6:23A-4, Subchapter 12, Operation and Maintenance of Facilities, was recodified from N.J.A.C. 6:22-9, Subchapter 13, Applications for Retroactive Funding of Projects, was recodified from N.J.A.C. 6:23A-3, Subchapter 15, State School Facilities Documents was recodified from N.J.A.C. 6:23A-6, and Subchapter 17, Appeals, was recodified from N.J.A.C. 6:23A-7 by R.2001 d.367, effective October 1, 2001. See: 33 N.J.R. 1809(a), 33 N.J.R. 3482(a).

Subchapter 9, Capital Reserve Accounts, was repealed by R.2006 d.361, effective October 2, 2006. See: 38 N.J.R. 2333(a), 38 N.J.R. 4178(b).

Chapter 26, Educational Facilities, was readopted as R.2007 d.81, effective February 9, 2007. As a part of R.2007 d.81, Subchapter 11, County Vocational District Facilities Rehabilitation Fund, was renamed County Vocational School District Facilities Rehabilitation Fund, effective March 19, 2007. See: Source and Effective Date. See, also, section annotations.

Subchapter 18, Section 15 Grants for Regular Operating Districts, Including County Vocational School Districts, was adopted as special new rules by R.2009 d.2, effective November 25, 2008. See: 41 N.J.R. 309(a).

Subchapter 18, Section 15 Grants for Regular Operating Districts, Including County Vocational School Districts, was readopted as R.2010 d.111, effective May 24, 2010. See: 41 N.J.R. 4371(a), 42 N.J.R. 1166(b).

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#### SUBCHAPTER 1. GENERAL PROVISIONS

##### 6A:26-1.1 Purpose and applicability of rules

These rules are adopted by the New Jersey State Board of Education to implement Sections 1 to 12, 57 and 58 of the Educational Facilities Construction and Financing Act (EFCFA), P.L. 2000, c.72, and to implement P.L. 2000, c.43, as well as to consolidate, conform and update other rules relating to educational facilities in this State. These rules are adopted in order to ensure that the educational facilities in the State are safe, healthy and educationally adequate to support the delivery of the thorough and efficient education to which all students are entitled, as defined by the Core Curriculum Content Standards. These rules apply to all district boards of education "districts" in the State. To the extent these rules are inconsistent with any other rules in Titles 6 and 6A of the New Jersey Administrative Code, these rules shall take precedence.

Amended by R.2007 d.81, effective March 19, 2007.

See: 38 N.J.R. 4533(a), 39 N.J.R. 899(a).

Deleted second sentence.

##### 6A:26-1.2 Definitions

As used in this chapter, unless the context clearly indicates otherwise, the following words and terms shall have the following meanings:

"Abbott school district" means an Abbott school district as defined in N.J.S.A. 18A:7F-3.

"Additional costs" means the additional construction costs beyond the area cost allowance for construction or the costs beyond reasonable estimated actual costs for rehabilitation if such costs are the result of factors outside the control of the school district, provided that either type of costs results from design factors that are required to meet the facilities efficiency standards and are approved or authorized pursuant to N.J.S.A. 18A:7G-5(g) or 18A:7G-6(c).

"Additional space" means space in excess of the facilities efficiency standards.

“Adjusted gross square footage” means the gross square footage of a facility less excluded spaces.

“Application for State School Aid” or “ASSA” means the application filed by a school district pursuant to N.J.S.A. 18A:7F-33, on a form issued by the Commissioner, pursuant to which the school district sets forth student enrollment by category and other pertinent information.

“Approved area for unhoused students” means the product of the area allowance per FTE student times the number of unhoused students.

“Approved LRFP” or “approved plan” means an LRFP that conforms to the requirements of N.J.A.C. 6A:26-2 and that has been determined by the Commissioner pursuant to a final determination, to ensure that, over the next five years, the school facilities are educationally adequate to support the achievement of the Core Curriculum Content Standards.

“Area allowance per FTE student” means, for the 2001-2002 and 2002-2003 school years, 125 square feet for pre-school through grade five, 134 square feet for grades six

(2) Renovations to existing vocational instructional space to support new programs approved by the Office of Career and Technical Education; or

(3) Additions for existing vocational instructional space to meet industry certification standards.

ii. Level 2 projects will be evaluated based upon attributes that include, but are not limited to, the following:

(1) Industry certification requirements or standards;

(2) Gap analysis between existing facilities and industry requirements or standards;

(3) Enrollment or anticipated enrollment;

(4) Priority of the related career cluster in the State and local approved Carl D. Perkins for Career and Technical Education five-year plan; and

(5) Labor market demand.

(c) Section 15 grants shall be allocated to school facilities projects in the county vocational school districts which first fall within Level 1 and then Level 2 in the following order of priority until the entire allocation has been awarded:

1. County vocational school districts that received no State funding support for its school facilities projects from the \$100,000,000 of bond proceeds originally allocated for the State share of county vocational school district school facilities projects. If the total amount requested by county vocational school districts in this category exceeds the amount available, the preliminary grant amounts approved will be adjusted on a pro rata basis calculated by multiplying the eligible State share by the ratio of the available funds divided by the total eligible State share. The Department may notify the districts of the final grant awards in this category prior to the determinations of final grant awards in the following categories.

2. County vocational school districts that received less than \$1,000,000 in State funding support for its school facilities projects from the \$100,000,000 of bond proceeds originally allocated for the State share of county vocational school district school facilities projects. The Department may notify the districts of the final grant awards in this category prior to the determinations of final grant awards in the following categories.

3. County vocational school districts that received greater than \$1,000,000 but less than \$5,000,000 in State funding support for its school facilities projects from the \$100,000,000 of bond proceeds originally allocated for the State share of county vocational school district school facilities projects. The Department may notify the districts of the final grant awards in this category prior to the determinations of final grant awards in the following categories.

4. County vocational school districts that received greater than \$5,000,000 in State funding support for its school facilities projects from the \$100,000,000 of bond proceeds originally allocated for the State share of county vocational school district school facilities projects.

5. If the entire \$50 million available for school facilities projects in county vocational school districts has no been allocated pursuant to (c)1 through 4 above, additional allocations will be made based on the same order of funding indicated in (c)1 through 4 above and based on the total of new funding received from the allocation and funding received from the original allocation.

(d) If a school facilities project has been previously approved by the Department and the county vocational school district would like it to be considered for section 15 grant funding, one of the following options, based on the type of project approval, may be selected:

1. If the project was approved as an "other capital" project, the district must cancel the project application and resubmit a new project application to the Department in accordance with the grant deadlines noted above.

2. If the project was approved for State debt service aid, two options are available.

i. If the district has accepted the preliminary eligible costs as the final eligible costs, the district must cancel the project and submit a new project application to the Department.

ii. If the district has not accepted the preliminary eligible costs as the final eligible costs, the district may request the school facilities project to be considered for a section 15 grant.

3. All cancellation requests and resubmissions must include a resolution from the county board of chosen freeholders requesting the cancellation and resubmission of the specified project and must meet the grant application deadlines noted above.

(e) If a county vocational school district elects to cancel a project and apply for a section 15 grant, the school facilities project must meet the eligibility requirements listed in N.J.A.C. 6A:26-18.3.

(f) If a school facilities project in a county vocational school district does not receive section 15 grant funding, the county vocational school district shall have one of the options listed below, depending upon the type of school facilities project.

1. If the proposed school facilities project is not included in Level 1 or Level 2 project priority categories per (b) above, the county vocational school district can revise and resubmit the school facilities project. The resubmission must be completed no later than August 1, 2009.

2. If the school facilities project has eligible costs for State support, the county vocational school district can request State debt service aid instead of a section 15 grant pursuant to N.J.S.A. 18A:7G-9.

3. If the county vocational school district does not want State debt service aid, it can revise and resubmit an application for an "other capital" project pursuant to N.J.A.C. 6A:26-3.1(b) and fully fund the project without State support.