

CHAPTER 26

EDUCATIONAL FACILITIES

Authority

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

In accordance with N.J.S.A. 52:14B-5.1c, Subchapter 18, Section 15 Grants for Regular Operating Districts, Including County Vocational School Districts, expires on May 24, 2010. See: 41 N.J.R. 4371(a).

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Subchapter 9, Capital Reserve Accounts, was repealed by R.2006 d.361, effective October 2, 2006.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).

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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.

(3) Renovation or new construction of capacity generating classrooms to address overcrowding or a substandard condition.

iii. Level 3. These are school facilities projects that are either new construction or rehabilitation that also qualifies as reconstruction. For purposes of this subsection, "reconstruction" means reconstruction as defined in the UCC, N.J.A.C. 5:23-6.3. Reconstruction and/or new construction projects will be evaluated based upon the following attributes:

- (1) District-wide unhoused students and overcrowding;
- (2) Early childhood program accommodations;
- (3) Compliance with the facilities efficiency standards;
- (4) Use of temporary or leased facilities;
- (5) Building age;
- (6) Project scope; and
- (7) Prior section 15 funding.

(e) If the school facilities project fits into more than one of the priority project categories, the entire school facilities project shall be deemed to fall within the lowest of the priority project categories for which it qualifies.

(f) If a ROD submits more than one application for a section 15 grant for a school facilities project that includes new construction, all of such applications for section 15 grants must not have any excess costs. If one or more of the applications has excess costs, none of the applications shall qualify for a section 15 grant.

(g) A ROD is eligible to receive a section 15 grant for a school facilities project involving the replacement of a building system that was all or part of a school facilities project that previously received State support, provided the building system to be replaced has approached or exceeded its life expectancy. The district shall provide documentation concerning the life expectancy of the building system, which may include, but not be limited to, the original installation date or the building system manufacturer's warranty.

(h) A ROD may request, on a form supplied by the Department, a determination as to the eligibility of a school facilities project for a grant and a determination of the preliminary grant amount. Upon allocation by the Commissioner of section 15 grants as set forth in this subchapter, the Department shall notify the ROD of the final grant amount.

(i) RODs may take one of the following actions, as applicable, for a school facilities project which has been submitted to the Department for approval or have received approval from the Department prior to November 25, 2008:

1. A ROD that has submitted an application for approval of a school facilities project to the Office of School Facilities but has not yet received project approval may submit an application for a section 15 grant pursuant to this subchapter in accordance with the grant deadlines set forth in this subchapter.

2. If a ROD wants to submit an application for a section 15 grant pursuant to this subchapter for a project that has previously been reviewed pursuant to N.J.A.C. 6A:26-3.12 as an "other capital" project, the ROD must withdraw the prior application from the Office of School Facilities and resubmit a new project application to the Office of School Facilities.

3. If a ROD wants to submit a school facilities project for a section 15 grant pursuant to this subchapter for a school facilities project which previously was approved for State debt service aid and has accepted the preliminary eligible costs as the final eligible costs prior to November 25, 2008, the ROD must withdraw the prior application from the Office of School Facilities and resubmit a new project application to the Office of School Facilities.

4. If a ROD wants to submit a school facilities project for a section 15 grant pursuant to this subchapter for a school facilities project which previously was approved for State debt service aid but has not accepted the preliminary eligible costs as the final eligible costs prior to November 25, 2008, the ROD may request that the school facilities project be considered for a section 15 grant instead of State debt service aid.

5. If a school facilities project is cancelled pursuant to this subsection and an application for a section 15 grant for such project is then submitted, the school facilities project must meet the eligibility requirements and deadlines set forth in this subchapter.

6. Any submission of a ROD for a section 15 grant pursuant to the provisions of this section must include a resolution from the school board of the district requesting the cancellation of the prior application and submission of a new application for a section 15 grant for the specified school facilities project.

6A:26-18.4 Funding options for school facilities project in RODs, other than county vocational school districts, which are not awarded a section 15 grant

(a) If the school facilities project met the criteria for inclusion in one of the three priority project categories but was not awarded funding in a grant cycle, the ROD may resubmit an application for a section 15 grant for the school facilities project in a subsequent grant cycle.

(b) If the school facilities project did not fall into one of the three priority project categories or contained work that prevented its placement in a higher priority project category, and was not awarded funding, the ROD may revise and

resubmit an application for a section 15 grant for the school facilities project in a subsequent grant cycle.

(c) If a ROD does not obtain a section 15 grant for the school facilities project and also does not want State debt service aid, the ROD may instruct the Office of School Facilities to consider its application for the school facilities project to be one for an "other capital" project and fully fund the project without State support.

6A:26-18.5 Deadlines for submission of Section 15 grant applications for RODs, not including county vocational school districts

(a) The Commissioner shall determine each year the amount of funds allocated to section 15 grants for such year, and shall notify the RODS regarding the amount of funds allocated for such year, and the date on which the Commissioner shall begin to receive applications for section 15 grant funding.

(b) Applications for section 15 grants shall be submitted by the district no later than 90 days from the date upon which the Commissioner indicates applications may be filed.

(c) Within any grant cycle, awards of section 15 grants shall be awarded first to school facilities projects which fall within Level 1. If the total amount of section 15 grants approved in any grant cycle for school facilities projects in Level 1 is less than the amount of the annual allocation, awards of section 15 grants shall be awarded to school facilities projects which fall within Level 2. If the total amount of section 15 grants approved in any grant cycle for school facilities projects in level 2 is less than the amount of the annual allocation, awards of section 15 grants shall be awarded to school facilities projects which fall within Level 3. After such determinations if the total amount of section 15 grants approved in any grant cycle is less than the amount allocated by the Commissioner for such grant cycle, the amount remaining shall be added to the allocation for the next grant cycle.

(d) A ROD must obtain the local share pursuant to N.J.A.C. 6A:26-3.7 within 180 days of notification by the Department of the final grant award. If the local share is not obtained within such time period, the award of a section 15 grant will be rescinded. The ROD may resubmit a grant application for reconsideration in a future grant cycle.

(e) Any changes to a school facilities project after notification of the final grant amount shall be submitted to the Department for its approval and the school facilities project must meet the eligibility requirements in order to continue to be eligible for the section 15 grant.

6A:26-18.6 Section 15 grants for county vocational school district school facilities projects

(a) A county vocational school district interested in applying for a section 15 grant for a school facilities project

shall notify the Department, in writing, no later than December 31, 2008. A county vocational school district may request, on a form supplied by the Department, a preliminary determination concerning the eligibility of the school facilities project for a grant. Applications for a section 15 grant must be received by the Department no later than June 30, 2009. If the application for approval of a school facilities project is complete and approved pursuant to N.J.A.C. 6A:26-3.3, the Department will issue preliminary project approval to the county vocational school district, including a determination of the preliminary grant amount, no later than September 30, 2009. If the county vocational school district by resolution of its Board of Education indicates its acceptance of the preliminary eligible costs as the final eligible costs, the county vocational school district shall notify the Department whereupon the Department will issue final project approval to the district including the determination of the preliminary grant amount no later than October 30, 2009.

(b) A county vocational school district school facilities project shall be eligible for a section 15 grant provided that there are no excess costs and the project and falls within either the Level 1 or Level 2 priority project categories described as follows:

1. Level 1 county vocational school district school facilities projects.

i. Level 1 county vocational school district school facilities projects are projects that address the most critical operational building needs, including health and safety issues. These projects must consist of one or more of the following:

(1) Capital maintenance projects (maintenance intended to extend the useful life of a school facility, including upgrades and replacement of building systems, such as structure, enclosure, mechanical, plumbing and electrical systems, and can be considered to constitute or be part of a school facilities project);

(2) Projects that address handicapped accessibility (including site and building access, toilet room renovations or program expansion or educational adequacy for special population needs);

(3) Building code issues; or

(4) Technology infrastructure (for classroom instruction in accordance with the Department's Technology Plan not including equipment).

2. Level 2 county vocational school district school facilities projects.

i. Level 2 county vocational school district school facilities projects must consist of one or more of the following:

(1) Upgrades to existing vocational instructional space to meet certification requirements;