

consolidate, conform, and update other rules relating to educational facilities in this State. The rules are adopted 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 New Jersey Student Learning Standards. The rules apply to all district boards of education in the State. To the extent these rules are inconsistent with other rules in Titles 6 and 6A of the New Jersey Administrative Code, the rules in this chapter 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.

Amended by R.2013 d.145, effective December 16, 2013.

See: 45 N.J.R. 1026(a), 45 N.J.R. 2557(a).

Rewrote the section.

Administrative change.

See: 48 N.J.R. 1802(a).

Case Notes

In a school board's appeal of a city zoning board of adjustment's denial of its use variance application to convert an industrial building into a school, the denial was reversed because in matters of educational facility adequacy, student safety, and student transportation, the zoning board must defer to the findings and conditions imposed by the New Jersey State Board of Education, the agency delegated such responsibility. Further, the school board failed to make a formal application for the use variance. *Board of Educ. of Clifton v. Zoning Bd. of Adjustment of Clifton*, 409 N.J. Super. 515, 978 A.2d 325, 2006 N.J. Super. LEXIS 370 (L.Div. 2006); affirmed by 409 N.J. Super. 389, 977 A.2d 1050, 2009 N.J. Super. LEXIS 216 (App.Div. 2009).

New Jersey State Board of Education's findings pertaining to educational adequacy, student safety, and student transportation matters trump contradictory findings by a local zoning board and, instead, the zoning board's jurisdiction is limited to considerations of whether the use variance should be granted or denied premised on limited aspects of the negative criteria as they relate to the impact on the surrounding neighborhood and the negative impact on the zoning ordinance. *Board of Educ. of Clifton v. Zoning Bd. of Adjustment of Clifton*, 409 N.J. Super. 515, 978 A.2d 325, 2006 N.J. Super. LEXIS 370 (L.Div. 2006); affirmed by 409 N.J. Super. 389, 977 A.2d 1050, 2009 N.J. Super. LEXIS 216 (App.Div. 2009).

6A:26-1.2 Definitions

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

"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).

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

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

"Annual maintenance budget amount" means the amount required to be included in the school district's annual budget certified for taxes as a deposit into the maintenance reserve account or in the required maintenance line-item accounts.

"Application for State School Aid" or "ASSA" means the application filed pursuant to N.J.S.A. 18A:7F-33, on a form issued by the Commissioner, in which a 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 a Commissioner's final determination to ensure the school facilities are educationally adequate to support over the next five years the achievement of the New Jersey Student Learning Standards.

"Area allowance per FTE student" means 125 square feet for preschool through grade five, 134 square feet for grades six through eight, and 151 square feet for grades nine through 12.

"Area cost allowance" means as set forth in N.J.S.A. 18A:7G-3.

"Building system" means a set of related or similar building components that work together to perform a major function in a building or facility.

"Capital maintenance" means maintenance intended to extend the useful life of a school facility, including upgrades and replacements 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.

"Capital project" means a school facilities project, other capital project or land acquisition project.

"Capital reserve account" means as defined in N.J.A.C. 6A:23A-1.2.

"Certified laboratory" means a laboratory certified pursuant to the provisions of N.J.A.C. 7:18.

"Comprehensive Annual Financial Report" or "CAFR" means the official annual report of a governmental unit that includes all funds and account groups, as defined in N.J.A.C. 6A:23A-1.2.

"Comprehensive maintenance plan" means a school district's multi-year maintenance plan covering required maintenance activities for each school facility in the school district adopted pursuant to this chapter.

“Cost index” means the average annual increase, expressed as a decimal, in actual construction cost factors for the New York City and Philadelphia areas during the second fiscal year preceding the budget year as determined pursuant to rules promulgated by the Development Authority.

“County vocational school district” means a county vocational school district established pursuant to N.J.S.A. 18A:54-1 et seq.

“Debt service” means as set forth in N.J.S.A. 18A:7G-3.

“Development Authority” means the New Jersey Schools Development Authority established pursuant to N.J.S.A. 52:18A-237.

“District aid percentage” means the number, expressed as a percentage derived from dividing the school district’s equalization aid calculated pursuant to N.J.S.A. 18A:7F-53 as of the date of the Commissioner’s determination of preliminary eligible costs by the school district’s adequacy budget calculated pursuant to N.J.S.A. 18A:7F-51 as of the date of the Commissioner’s determination of preliminary eligible costs.

“District board of education” means the local board of education or State district superintendent in the case of a State-operated district.

“District factor group” means an index of socioeconomic status established by the Department of Education based upon indicators available in the decennial census. School districts are arranged in 10 groups, DFG A through DFG J, A being the group with the lowest socioeconomic status, J the highest.

“Division” means the Department’s Division of Administration and Finance.

“Drinking water outlet” means any location at a school facility, other facility, or temporary facility, as those terms are defined in this section, where water is expected to be used for consumption or food preparation.

“Educational adequacy” means, for purposes of a school facilities project, the suitability of a facility to provide instruction that will enable students to achieve the New Jersey Student Learning Standards and will encompass the facilities efficiency standards combined with the requirements of N.J.A.C. 6A:26-5.

“Educational space” means any space in a school facility for general instruction, specialized instruction, administration or student services and support.

“Emergency stabilization” means actions taken by a school district to correct and eliminate an actual or imminent peril to the health and safety of students or staff designed to render a school facility fit for occupancy by students or staff.

“Emergent condition” means a condition is so injurious or hazardous that it causes an imminent peril to the health and safety of students and staff.

“Emergent project” means a capital project necessitating expedited review and, if applicable, approval, in order to alleviate a condition that, if not corrected on an expedited basis, would render a building or facility so potentially injurious or hazardous that it causes an imminent peril to the health and safety of students or staff.

“Estimated actual costs” means costs as determined pursuant to N.J.A.C. 6A:26-2.3 or 3.4.

“Excess costs” means as set forth in N.J.S.A. 18A:7G-3.

“Excluded space” is an existing space that is not contained in the facilities efficiency standards but may be included in a school district’s approved room inventory that would be structurally or fiscally impractical to convert to other uses in the facilities efficiency standards as demonstrated by the school district and that:

1. Delivers programs and services aligned to the New Jersey Student Learning Standards; or
2. Provides support services directly to students.

“Facility” means a structure or building as further defined in this section by the terms school facility, temporary facility or other facilities.

“Facilities efficiency standards” means the standards developed by the Commissioner pursuant to N.J.S.A. 18A:7G-4.

“Feasibility study” means a study undertaken to determine whether a school facilities project is achievable in view of possible identified factors that may influence the project’s design or construction, including, but not limited to, applicable Federal, State and local laws; physical site conditions; market conditions; and costs and benefits. For example, such a study may be a pre-construction evaluation undertaken by a school district to determine whether it would be more feasible to replace rather than renovate a school facility because of health and safety or efficiency. It may also consist of a pre-land acquisition evaluation to determine whether it would be more feasible to acquire land for a school facilities project because of health and safety, efficiency, environmental factors, physical site conditions, or cost.

“Filing year” means the year in which the comprehensive maintenance plan is filed with the executive county superintendent.

“Final eligible costs” means as set forth in N.J.S.A. 18A:7G-3.

“Final plans and specifications” means the plans and specifications utilized to bid a capital project and to undertake and complete its construction.

“FTE” means as set forth in N.J.S.A. 18A:7G-3.

“Functional capacity” means the number of students that can be housed in a building to provide sufficient space for the building to be educationally adequate for the delivery of programs and services necessary for student achievement of the New Jersey Student Learning Standards. Functional capacity is determined by dividing the adjusted gross square footage of a school facility by the minimum area allowance per FTE student for the grade level students contained therein.

“Grant cycle” means the amount of annual funding available, as determined by the Commissioner, for section 15 grants for school facilities projects in RODs, other than county vocational school districts.

“Gross square footage” means the total square footage of a school facility.

“Inconsistent space” means spaces that differ from the facilities efficiency standards in number, configuration, size, location, or use.

“Land acquisition” means an acquisition of land, whether by purchase, condemnation, or by gift or grant, to be used as a school site. Land acquisition is either an eligible cost of a school facilities project or an other capital project not eligible for funding pursuant to EFCFA.

“Lead action level” means the lead action level established by the United States Environmental Protection Agency at 40 CFR 141.80 for lead in drinking water.

“Lease-purchase agreement” means any agreement under which the school district leases equipment or school facilities as the lessee, and gives the school district the option of purchasing the leased property during or upon termination of the lease with credit toward the purchase price for all or part of rental payments that have been made by the school district in accordance with the lease-purchase agreement.

“Lease-purchase payment” means as set forth in N.J.S.A. 18A:7G-3.

“Local funding” means the funds supplied by a school district to finance the total costs of an other capital project.

“Local portion” means the amount of school bonds issued for a school facilities project funded under N.J.S.A. 18A:7G-9 or 10.

“Local share” means as set forth in N.J.S.A. 18A:7G-3.

“Local support” means the local share or the local portion.

“Long-range facilities plan” or “LRFP” means the plan required to be submitted to the Commissioner by a school district pursuant to N.J.S.A. 18A:7G-4.

“Maintenance reserve fund” means the account established by a school district pursuant to N.J.S.A. 18A:7G-13 into

which it deposits monies to be used exclusively for required maintenance of school facilities.

“New construction” means a school facilities project that consists of either:

1. New school facilities; and/or
2. Additions to school facilities characterized by an increase in the gross square footage of the school facility and that is necessary due to unhoused students.

“New Jersey Student Learning Standards” means the standards established pursuant to N.J.S.A. 18A:7F-4.a.

“Other allowable costs” means the cost of temporary facilities; site remediation; site development; acquisition of land/or other real property interest necessary to effectuate the school facilities project; fees for the services of design professionals, including architects, engineers, construction managers, and other design professionals; legal fees; permitting and plan review fees; financing costs; and the administrative costs of the Development Authority or the school district incurred in connection with the school facilities project.

“Other capital projects” means all projects, or portions thereof, that are 100 percent locally funded, including:

1. Capital projects for the construction or rehabilitation of other facilities;
2. Leased school facilities, other facilities or temporary school facilities, unless used as temporary space for a school facilities project in accordance with N.J.A.C. 6A:26-3.14, subject to Department review of the terms and conditions of the lease, in the case of school districts for which the State share of eligible costs for school facilities projects is 100 percent;
3. Eligible capital projects for which a school district is not seeking State support; and
4. Projects for which there are no costs eligible for State support.

“Other facilities” means athletic stadiums; swimming pools; any associated structures; or related equipment tied to such facilities, including, but not limited to, grandstands and night field lights, greenhouses, garages, facilities used for non-instructional or non-educational purposes, and any structure, building, or facility used solely for school administration.

“Preconstruction activities” means the activities that must be undertaken prior to completion and submission to the Department of a school facilities project application for approval and calculation of preliminary eligible costs. Such activities can include site analysis, acquisition of land, remediation, site development, feasibility studies, design work, and acquisition of and design work for temporary facilities.

“Preliminary eligible costs” means the initial eligible costs of a school facilities project, which shall be deemed to include the costs of construction and other allowable costs, as calculated pursuant to the formulas set forth in N.J.S.A. 18A:7G-7 after the completion of preconstruction activities.

“Priority project categories” means the categories specified in N.J.A.C. 6A:26-3.9(a) and 18.1.

“Project documents” means educational specifications, schematic plans, detailed plans and specifications, final plans and specifications, and other documents required for capital project review and approval by the Division.

“Quality Single Accountability Continuum” or “QSAC” means the monitoring and evaluation process of school districts pursuant to N.J.S.A. 18A:7A-10 et seq.

“Redevelopment entity” means an entity authorized by a municipal governing body to implement plans and carry out redevelopment projects in the municipality pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.

“Regular operating school district” or “ROD” means a school district other than an SDA district.

“Rehabilitation” means a school facilities project consisting of the reconstruction, remodeling, alteration, modernization, or repair of a school facility to keep the school facility functional for its original purpose or for new purposes and that does not increase the gross square footage of the school facility.

“Replacement cost” means the area cost allowance multiplied by the gross square footage of the building for the year specified in this chapter.

“Required maintenance” means, for purposes of determining “M” in the formula in N.J.A.C. 6A:26-3.8, specific maintenance activities required for system warranty purposes that are approved for repairs and replacements to keep a school facility open and safe for use or in its original condition - including repairs and replacements to a school facility’s heating, lighting, ventilation, security and other fixtures to keep the facility or fixtures in effective working condition - and that does not consist of routine or capital maintenance. Required maintenance is not an eligible cost of a school facilities project.

“Room inventory” means a list of each general instructional, specialized instructional, administrative, and support space, and the sizes and numbers that would constitute a school facility adequate to support the achievement of the New Jersey Student Learning Standards by the projected student enrollment.

“Routine maintenance” means contracted custodial or janitorial services; expenditures for the cleaning of a school facility or its fixtures; the care and upkeep of grounds or

parking lots; the cleaning of, or repairs and replacements to, movable furnishings or equipment; or other expenditures that are not required to maintain the original condition over the school facility’s useful life. Routine maintenance is not an eligible cost of a school facilities project.

“School bonds” means as set forth in N.J.S.A. 18A:7G-3.

“School district” means a district board of education, including a local or regional school district established pursuant to N.J.S.A. 18A:8-1 et seq. or 18A:13-1 et seq.; a county special services school district established pursuant to article 8 of N.J.S.A. 18A:46-1 et seq.; a county vocational school district established pursuant to article 3 of N.J.S.A. 18A:54-1 et seq.; and a school district under full State intervention pursuant to N.J.S.A. 18A:7A-34 et seq.

“School enrollment” means the number of FTE students who are recorded in the school registers on the last school day prior to October 16 of the current school year, except that it shall not include FTE students in evening programs, post-graduate students, and post-secondary vocational students.

“School facility” means and includes any structure, building, or facility used wholly or in part for educational purposes by a school district and facilities that physically support the structures, buildings, and facilities, such as school district wastewater treatment, power generating and steam generating, but excludes other facilities as defined in this section.

“School facilities project” means the acquisition, demolition, construction, improvement, repair, alteration, modernization, renovation, reconstruction, or capital maintenance of all or any part of a school facility or any other personal property necessary for, or ancillary to, any school facility. School facilities project includes, but is not limited to, fixtures; furnishings and equipment; site acquisition; site development; services of design professionals such as engineers and architects; construction management; legal services; financing costs; and administrative costs and expenses incurred in connection with the project. To qualify as a school facilities project, the project must be new construction to meet the housing needs of unhoused students, or rehabilitation to keep a school facility functional for its original purpose or for a new purpose accomplished within the gross square footage of the original building. Maintenance projects intended solely to achieve the design life of a school facility and routine maintenance do not constitute school facilities projects.

“SDA district” means a school district that received education opportunity aid or preschool expansion aid in the 2007-2008 school year.

“Section 15 grant” means a grant of funds to be made pursuant to N.J.S.A. 18A:7G-15.

“Short-term notes” means temporary notes or loan bonds as described in N.J.S.A. 18A:24-3.

“Special education student” means a student receiving specific services pursuant to N.J.S.A. 18A:46-1 et seq. and N.J.A.C. 6A:14, Special Education.

“State debt service aid” means the amount of State aid determined pursuant to N.J.S.A. 18A:7G-9 for school bonds issued for school facilities projects approved by the Commissioner on or after July 18, 2000, in school districts that elect not to have the Development Authority or a redevelopment entity construct the project or that elect not to finance the project under N.J.S.A. 18A:7G-15; and the amount of State aid determined pursuant to N.J.S.A. 18A:7G-10 for school bonds or certificates of participation issued for school facilities projects approved by the Commissioner prior to July 18, 2000.

“State debt service aid percentage” means the district aid percentage or 40 percent, whichever is greater.

“State share” means as set forth in N.J.S.A. 18A:7G-3.

“State support” means the State share or State debt service aid.

“Temporary facility” means a facility used for educating students on a temporary basis while awaiting completion of a school facilities project that will permanently house students. It also means:

1. A facility reviewed and approved by the executive county superintendent and/or the Division as substandard prior to June 7, 2004, and a facility approved by the Division, as a temporary facility under the rules in effect on or after that date;
2. A facility not planned or constructed as a permanent school facility that is rented, leased, or otherwise acquired by a school district or a private school for the disabled for use by public school students; and
3. A temporary classroom unit, self-propelled van or other mobile unit, whether or not installed on a school district-owned school site.

“Total costs” means the final eligible costs plus excess costs, if any, for a school facilities project to be constructed by the Development Authority or a redevelopment entity or financed pursuant to N.J.S.A. 18A:7G-15; the total cost of the project as determined by the school district for a school facilities project not to be constructed by the Development Authority or a redevelopment entity or financed pursuant to N.J.S.A. 18A:7G-15, and the total costs of an other capital project as determined by the school district.

“Type I school district” means a school district established in a city, pursuant to N.J.S.A. 18A:9-2, where board members are appointed by the municipality, and where the governing body of the municipality issues school bonds for school district capital projects, pursuant to N.J.S.A. 18A:22-20 and 18A:24-11.

“Type II school district” means a school district established in a municipality other than a city, every consolidated school district, and every regional school district, pursuant to N.J.S.A. 18A:9-3, where board members are elected or appointed by the municipality, as applicable, and where the district board of education issues school bonds for school district capital projects in a school district without a board of school estimate, pursuant to N.J.S.A. 18A:24-12.

“Uniform Construction Code” or “UCC” means N.J.A.C. 5:23.

“Unhoused students” means the number of students in excess of the functional capacity of a school facility calculated pursuant to N.J.A.C. 6A:26-2.2(c).

“Useful life” means the applicable recovery period for depreciation purposes determined under Section 168 of the Internal Revenue Code of 1986, 26 U.S.C. § 168 as amended and supplemented, and the applicable regulations.

Amended by R.2004 d.214, effective June 7, 2004.
See: 36 N.J.R. 243(a), 36 N.J.R. 2733(b).

Rewrote the section.

Amended by R.2007 d.81, effective March 19, 2007.
See: 38 N.J.R. 4533(a), 39 N.J.R. 899(a).

Inserted “school” preceding “district” throughout; in definition “District”, inserted “or ‘school district’”; in definitions “District aid percentage” and “Excluded space”, inserted “school” preceding “district’s”; in definition “District factor grouping”, substituted “School districts” for “Districts”; deleted definition “Early Childhood Education Program Expectations: Standards of Quality”; rewrote definitions “Facility” and “Facilities efficiency standards”; in definitions “Final eligible costs”, “FTE”, “Other capital projects” paragraph 2, “State debt service aid” and “State share”, inserted “school” preceding “districts”; added definition “Preschool Teaching and Learning Expectations: Standards of Quality”; in definition “Temporary facility” paragraph 3, inserted “school” preceding “district-owned”; and in definition “Type II school district”, inserted “of education”.

Amended by R.2013 d.145, effective December 16, 2013.
See: 45 N.J.R. 1026(a), 45 N.J.R. 2557(a).

Rewrote the introductory paragraph; rewrote definitions “Additional costs”, “Additional space”, “‘Application for State School Aid’ or ‘ASSA’”, “Approved LRF”, “Area allowance per FTE student”, “Area cost allowance”, “Capital reserve account”, “Cost index”, “Debt service”, “District aid percentage”, “District board of education”, “Division”, “Educational adequacy”, “Excess costs”, “Excluded space”, “Facilities efficiency standards”, “Feasibility study”, “Final eligible costs”, “Final plans and specifications”, “FTE”, “Functional capacity”, “Local funding”, “Local share”, “‘Long-range facilities plan’ or ‘LRF’”, “New construction”, “Other allowable costs”, “Other capital projects”, “Other facilities”, “Preliminary eligible costs”, “Project documents”, “Redevelopment entity”, “Rehabilitation”, “Required maintenance”, “Routine maintenance”, “School bonds”, “School enrollment”, “School facility”, “School facilities project”, “State debt service aid”, “State share”, “Temporary facility”, “Total costs”, “Type I school district”, “Type II school district”, “Unhoused students”, and “Useful life”; deleted definitions “Abbott school district”, “Authority”, “Commissioner”, “Community design feature”, “Community provider”, “Community provider early childhood education facilities project”, “Demonstration project”, “Department”, “‘District’ or ‘school district’”, “‘Early Childhood Program Aid’ or ‘ECPA’”, “‘Early Childhood Program Aid district’ or ‘ECPA school district’”, “Fall survey report”, “Local unit”, “Local unit obligations”, “NJDEP”, “Non-Abbott school district”, “Non-authority project”, “Preschool students”, “Preschool Teaching and Learning Expectations: Standards of Quality”, and “Programmatic model”; added definitions “Annual maintenance budget amount”, “Building system”, “Comprehensive Annual Financial Report’ or ‘CAFR’”, “Comprehensive maintenance plan”,

“County vocational school district”, “Development Authority”, “Grant cycle”, “Maintenance reserve fund”, “Priority project categories”, “Quality single Accountability Continuum” or “QSAC”, “Regular operating school district” or “ROD”, “Replacement cost”, “Room inventory”, “School district”, “SDA district”, and “Section 15 grant”; substituted definition “Core Curriculum Content Standards” for definition “Core curriculum content standards”, definition “District factor group” for definition “District factor grouping”, definition “Land acquisition” for definition “Land acquisition project”, definition “Lease-project agreement” for definition “Lease purchase agreement”, and definition “Preconstruction activities” for definition “Pre-development activities”; and rewrote definitions “Core Curriculum Content Standards”, “Land acquisition”, “Lease-project agreement”, and “Preconstruction activities”.

Special amendment, R.2016 d.093, effective July 13, 2016 (to expire June 30, 2017).

See: 48 N.J.R. 1705(a).

Added definitions “Certified laboratory”, “Drinking water outlet”, and “Lead action level”.

Administrative change.

See: 48 N.J.R. 1802(a).

Case Notes

Petitioner was entitled to summary decision in its favor on its challenge to the manner in which the Office of School Facilities (OSF) was reviewing and acting on application for emergent repairs to school facilities per the N.J. Potential Emergent Projects Program (PEPP) because it showed that the OSF’s process did not comply with governing regulations. Specifically, the OSF’s determinations on PEPP projects identified by petitioner came significantly later than 150 days after the application date; the approval process for projects designated by the OSF as emergent had yet to reach closure; and the OSF had not met its obligation to promptly issue Preliminary Project Reports for these projects. Education Law Center ex rel. Abbott v. Burke Plaintiff Sch. Children v. N.J. Dep’t of Educ., Office of Sch. Facilities, OAL DKT. NO. EDU7652-12, 2014 N.J. AGEN LEXIS 1013, Final Administrative Determination (July 17, 2014).

SUBCHAPTER 2. LONG-RANGE FACILITIES PLANS

6A:26-2.1 Responsibilities of school district

(a) Following the approval of the 2005 LRFP, each school district shall amend its LRFP at least once every five years on software made available by the Department, and in accordance with the instructions for completing the software. For newly established school districts, the LRFP shall be submitted no later than one year following its formation or earlier if the school district seeks approval for a school facilities project. The LRFP shall detail the school district’s school facilities, other facilities and temporary facilities and the school district’s plan for meeting school facilities needs during the ensuing five years.

(b) Except as provided in N.J.A.C. 6A:26-3.14, no school facilities project shall be considered or approved unless the school district’s LRFP has been submitted to the Department and approved by the Commissioner.

(c) Each school district shall submit its LRFP to the planning board(s) of the municipality(ies) in which the school district is situated, no later than the date the school district submits the LRFP to the Commissioner, to afford the planning board(s) the opportunity to prepare and submit

findings to the school district. In the case of a regional school district, all municipalities comprising the regional school district shall be considered school districts in which the regional school district is situated for purposes of this subsection. A school district shall provide to the Division proof of the date the school district submits the LRFP to the Commissioner and to the planning board(s). The planning board(s) shall submit its findings, if any, to the Division of Administration and Finance, Office of School Facilities, PO Box 500, Trenton, New Jersey 08625-0500, within 45 days of its receipt of the LRFP. No LRFP shall be considered complete until comments have been received from the planning board(s) or until 45 days have passed from the planning boards’ receipt of the LRFP. If the school district or its architect receives the planning board findings, the findings shall be forwarded promptly to the Division at the above address.

(d) All school districts sending students to another school district to be educated pursuant to N.J.S.A. 18A:38-8 et seq. shall expeditiously provide all information necessary for the receiving school district to complete its LRFP, including, but not limited to, demographic information necessary to prepare enrollment projections. Both sending and receiving school districts must submit a LRFP. If a send-receive relationship is terminated pursuant to N.J.S.A. 18A:38-21, both the sending and receiving school district shall promptly submit an amended LRFP.

(e) If one or more member school districts withdraw from a regional school district operating pursuant to N.J.S.A. 18A:13-1 et seq., or the regional school district dissolves pursuant to N.J.S.A. 18A:13-51 et seq., all such withdrawing school districts and the regional school district, if applicable, shall submit an amended LRFP.

(f) At any time, a school district may submit an amendment to an approved LRFP for review and approval by the Commissioner.

(g) A school district’s approved LRFP shall remain in effect until an amended LRFP is approved.

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

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

Rewrote the section.

Amended by R.2004 d.214, effective June 7, 2004.

See: 36 N.J.R. 243(a), 36 N.J.R. 2733(b).

In (a), substituted “Department” for “Commissioner” throughout; in (b), inserted “the Department” following “submitted to”; in (c), substituted “Division” for “Commissioner” throughout, rewrote the third sentence and added a fifth; rewrote (g).

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

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

Section was “Responsibilities of district”. Inserted “school” preceding “district”, “districts” and “district’s” throughout.

Amended by R.2013 d.145, effective December 16, 2013.

See: 45 N.J.R. 1026(a), 45 N.J.R. 2557(a).

Rewrote the section.

6A:26-2.2 Completion of long-range facilities plans

(a) Each LRFP shall include:

1. Enrollment projections for the school district for the five years covered by the plan, by grade level, as set forth in the Fall Survey Report for grades K through 12 and the ASSA for preschool programs, and utilizing enrollment figures as of October 15 of the previous year as the base enrollment figures. Students enrolled in the school district who are attending charter schools, students attending the schools of the school district pursuant to the school choice program, and students enrolled in the school district but attending private schools for the disabled shall be separately identified in enrollment projections, and shall be excluded from the calculation of the number of unhoused students pursuant to (b) below.

i. The enrollment figures shall be certified by a qualified demographer;

ii. The resume and any other professional credentials relied upon by the school district to demonstrate that the person who prepared the enrollment projection possesses adequate experience to be considered a qualified demographer shall be submitted as part of the school district's LRFP. Adequate experience shall include preparation of enrollment reports and projections on behalf of school districts, both in fulfillment of statutory or regulatory obligations and for other purposes. School district employees, such as the chief administrator and school business administrator, as well as persons hired by a school district may, if they possess the requisite experience, serve as a qualified demographer;

iii. Projections shall be for the five ensuing years utilizing a cohort survival method, shall utilize pertinent live births of residents of the community provided by the

New Jersey Department of Health and Senior Services and shall include enrollment trends for the previous five years as set forth in the previous six Fall Survey Reports or ASSA, as appropriate;

iv. Where a school district does not believe a five-year projection utilizing a cohort survival method will accurately predict future enrollment, the school district shall submit additional data and justification for consideration by the Commissioner;

v. A school district shall adjust enrollment projections to account for significant numbers of students who are attending charter schools; and

vi. ECPA school districts shall make appropriate adjustments to enrollment projections for preschool children based on the history of the actual enrollments in those programs and consistent with the school district's approved ECPA plan;

2. The functional capacity of every school facility in the school district, listed separately by facility and grade level, including an inventory of all spaces in each facility;

3. An inventory of every school facility, other facility and temporary facility in the school district.

i. If a school district shares or leases facilities or any portion thereof, either as a lessor or lessee, all such spaces shall be included in its LRFP.

ii. All facilities, or portions thereof, owned by a school district that are leased or otherwise conveyed to



school districts, State-funded early childcare facilities pursuant to N.J.A.C. 6A:13A, and receiving schools as defined by N.J.A.C. 6A:14-7.1(a). Throughout this subchapter, "district board of education" refers to the governing authority for all of the entities identified in this subsection, unless otherwise indicated.

(b) District boards of education shall assure the availability of potable drinking water through sanitary means in school facilities or upon school grounds in accordance with the Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq., the rules promulgated pursuant thereto, N.J.A.C. 7:10 and 6A:26-6, Planning and Construction Standards for School Facilities.

(c) Testing of school drinking water quality shall be in accordance with the Safe Drinking Water Act, N.J.S.A. 58:12A-1 et seq., the rules promulgated pursuant thereto, N.J.A.C. 7:10 and 6A:26-6, Planning and Construction Standards for School Facilities.

(d) All district boards of education shall conduct lead sampling and analysis, as described in (d)1 and 2 below, in all drinking water outlets to which a student or staff member has or may have access, in each school facility, other facility, or temporary facility, as those terms are defined in this chapter, as soon as practicable, but no later than July 13, 2017. District boards of education may apply to the Department for an extension of this deadline of up to one year, upon written demonstration that there is no certified laboratory available to conduct testing by July 13, 2017. The extension request shall include evidence that the district board of education requested testing from at least three certified laboratories and the responses from the laboratories showing that the testing could not be completed within the designated time period.

1. Sampling shall be conducted in accordance with a lead sampling plan, which shall include:

i. A plumbing survey for each facility that identifies how water enters and flows through each facility, the types of plumbing materials used in the facility, such as the service line, piping, solder, fixtures, drinking water outlets where students or staff have or may have access, and point of use treatment, such as drinking water filters;

ii. The names and responsibilities of all individuals involved in sampling; and

iii. The following sampling procedures:

(1) Samples shall be taken after water has sat, undisturbed in the school pipes for at least eight hours but no more than 48 hours before the sample is taken;

(2) At least eight hours prior to sampling, signs shall be posted to indicate that water shall not be used and access to the buildings subject to the sampling shall be restricted to all but authorized staff members;

(3) Existing aerators, screens, and filters shall not be replaced or removed prior to or during sampling; and

(4) All samples shall be collected in pre-cleaned high-density polyethylene (HDPE) 250 milliliter (mL) wide-mouth single-use rigid sample containers that are properly labeled.

2. Analysis of samples shall be conducted as follows:

i. Analysis shall be conducted by a certified laboratory to analyze for lead in drinking water;

ii. The laboratory shall use an approved analytical method pursuant to the Federal Safe Drinking Water Act at 40 CFR 141.23(k)(1); and

iii. Sample analysis shall be conducted in accordance with a Quality Assurance Project Plan (QAPP), which shall be signed by the district board of education, the certified laboratory, and the individual responsible for conducting sampling. The QAPP shall include the identification of analytical methods, chain of custody procedures, data validation and reporting processes, detection limits, reporting to three significant figures, field blanks, and quality control measures required by the certified method.

3. The Department, in consultation with the Department of Environmental Protection (DEP), will develop a technical guidance manual to assist district boards of education in complying with the sampling and analysis requirements of this subchapter.

(e) Within 24 hours after the district board of education has reviewed and verified the final laboratory results, the district board of education shall:

1. Make the test results of all water samples publicly available at the school facility and on the district board of education's website; and

2. If any results exceed the permissible lead action level, provide written notification to the parents/guardians of all students attending the facility, as well as to the Department. This notification shall include a description of the measures taken by the district board of education to immediately end use of each drinking water outlet where water quality exceeds the permissible lead action level, the measures taken to ensure that alternate drinking water has been made available to all students and staff members, and information regarding the health effects of lead.

(f) Notwithstanding the results of any prior testing, all district boards of education shall continue to test drinking water outlets as provided below:

1. Within six years following the initial testing set forth in (d) above and every six years thereafter, all district boards of education shall test all drinking water outlets. Sampling shall be prioritized, such that buildings and fa-

cilities that previously had outlets with results above the action level or identified in the plumbing profile as high risk for lead shall be sampled first in accordance with the sampling plan; and

2. All district boards of education shall sample for lead after the replacement of any drinking water outlet or any other alteration to plumbing or service lines that may impact lead levels at the outlet.

(g) All district boards of education shall submit to the Department on an annual basis a statement of assurance that lead testing was completed in accordance with this subchapter, that notifications were provided consistent with this subchapter, and that alternate drinking water continues to be made available to all students and staff.

(h) A district board of education may apply to the Department for an exemption from the initial testing if the district board of education can demonstrate that it complied with or exceeded the testing requirements set forth in (d) above, including any required public notifications, by July 13, 2011. The district board of education shall provide to the Department information regarding the testing activities conducted, including the lead sampling plan and an analysis of the samples taken. A district board of education that receives an exemption from the Department from initial testing pursuant to this subsection shall make available for public inspection at the school facility and on the district board of education's website, if applicable, the results of any prior testing and shall conduct testing within six years of the prior testing in accordance with (f) above.

(i) District boards of education may request an exemption from the testing requirements set forth in (d) above if they can demonstrate that they do not use any drinking water outlets for consumption or food preparation in any of their facilities. District boards of education seeking an exemption pursuant to this provision shall submit an application to the Department documenting that no drinking water outlets are used in their facilities and the provisions for an alternative source of drinking water. A district board of education that receives an exemption from the Department from testing pursuant to this subsection shall make available for public inspection at the school facility and on the district board of education's website, if applicable, confirmation that the district board of education is exempt from testing. Within six years of receiving an exemption pursuant to this subsection, a district board of education shall either begin testing procedures in accordance with (f) above or reapply for an exemption under this subsection.

(j) All district boards of education are eligible to be reimbursed for the water supply testing and analysis conducted pursuant to (d) above after July 13, 2016. To receive reimbursement, the district board of education shall complete and submit to the Department a reimbursement application on a form or in a format supplied by the Department. The Department will make the reimbursement application available on

its website. Nonpublic schools choosing to conduct testing in accordance with (d) above may submit a reimbursement application to the Department, approval of which is subject to available funds.

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

In (a) and (b), inserted internal chapter references.
Amended by R.2004 d.214, effective June 7, 2004.

See: 36 N.J.R. 243(a), 36 N.J.R. 2733(b).

Amended N.J.S.A. references throughout.

Special amendment, R.2016 d.093, effective July 13, 2016 (to expire June 30, 2017).

See: 48 N.J.R. 1705(a).

Added new (a); recodified former (a) and (b) as (b) and (c); and added (d) through (j).

6A:26-12.5 Eye protection in schools

(a) Each district board of education shall require each student, staff member, and school visitor, including individuals present for evening adult-school programs, to wear appropriate eye protective devices while participating in educational activities and programs as defined in N.J.A.C. 6A:7-1.3 that use caustic or explosive chemicals or materials, hot liquids, or solids, or molten materials, or that engages in welding operations of any type, repairing, or servicing of vehicles, heat treatment or tempering of metals, the shaping of solid materials, laser-device operation and experimentation, or any similar process or activity is engaged in, exposure to which might have a tendency to cause damage to the eyes.

(b) The term "appropriate eye protective device" shall include plain or prescription lenses provided the lenses and other portions of the device meet or exceed the prescribed specifications for the device. Specifications for appropriate eye protection for various activities shall meet or exceed standards described in (b)1 and 2 below. The standards, with all subsequent amendments and supplements, are hereby adopted as rules and incorporated herein by reference.

1. American National Standard Practice for Occupational and Educational Eye and Face Protection, ANSI Z87.1-1989.

2. American National Standard Practice for the Safe Use of Lasers, ANSI Z136.1-1986 and eye protective procedures recommended by the manufacturer of the laser device.

(c) The documents in (b)1 and 2 above are available for review at the Office of School Facilities, 200 River View Plaza, Trenton, New Jersey. The documents can be purchased from the American National Standards Institute, Inc., 11 West 42nd Street, New York, New York 10036.

(d) Emergency eye wash fountains, or similar devices capable of a minimum 15 minutes continuous flow of eye-wash solution, shall be provided in classrooms, shops, laboratories, or other area where pupils or instructors are exposed to caustic materials that can cause damage to the eyes.