

## Article - Education

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§5–301.

(a) In this subtitle, “Interagency Committee” means the Interagency Committee on School Construction established under § 5–302 of this subtitle.

(b) (1) For the purposes of this section other than subsection (c), the Board of Public Works shall define by regulation what constitutes an eligible and ineligible public school construction or capital improvement cost.

(2) (i) The Board of Public Works shall include modular construction as an approved public school construction or capital cost.

(ii) The Board of Public Works, at the recommendation of the Interagency Committee on School Construction, shall adopt regulations that:

1. Define modular construction; and

2. Establish the minimum specifications required for approval of modular construction as a public school construction or capital improvement cost.

(3) The cost of acquiring land may not be considered a construction or capital improvement cost and may not be paid by the State.

(b–1) The Board of Public Works, in consultation with the Department of General Services and the Department of Housing and Community Development, shall adopt regulations establishing criteria designed to enhance indoor air quality for the occupants of relocatable classrooms constructed after July 1, 2014, that are purchased or leased using State or local funds, including specifications that:

(1) Require each unit to include appropriate air barriers to limit infiltration;

(2) Require that each unit be constructed in a manner that provides protection against water damage through the use of proper roofing materials, exterior sheathing, water drainage systems, and flashing;

(3) Require that each unit provide continuous forced ventilation when the unit is occupied;

(4) Require each unit to include a programmable thermostat;

(5) Require each unit to be outfitted with energy efficient lighting and heating and air–conditioning systems; and

(6) Mandate that each unit be constructed with building materials that

contain low amounts of volatile organic compounds (VOC) in accordance with industry standards.

(c) The State shall pay the costs in excess of available federal funds of the State share of public school construction projects and public school capital improvements in each county if:

(1) The projects or improvements have been approved by the Board of Public Works; and

(2) Contracts have been executed on or after July 1, 1971 for the projects or improvements.

(d) (1) The Board of Public Works may adopt regulations for the administration of the programs provided for in this section.

(2) The regulations adopted by the Board of Public Works may contain requirements for:

(i) The development and submission of long range plans;

(ii) The submission of annual plans and plans for specific projects;

(iii) The submission of other data or information that is relevant to school construction or capital improvement;

(iv) The approval of sites, plans, and specifications for the construction of new school buildings or the improvement of existing buildings;

(v) Site improvements;

(vi) Competitive bidding;

(vii) The hiring of personnel in connection with school construction or capital improvements;

(viii) The actual construction of school buildings or their improvements;

(ix) The relative roles of different State and local governmental agencies in the planning and construction of school buildings or school capital improvements;

(x) School construction and capital improvements necessary or appropriate for the proper implementation of this section;

(xi) At the recommendation of the Interagency Committee, the establishment of priority public school construction programs;

(xii) Development of cooperative arrangements that permit the sharing of facilities among two or more school systems;

(xiii) The selection of architects and engineers by school systems;

(xiv) The award of contracts by school systems; and

(xv) Method of payments made by the State under the Public School Construction Program.

(3) The regulations adopted by the Board of Public Works shall contain provisions:

(i) Establishing a State and local cost–share formula for each county that identifies the factors used in establishing the formulas;

(ii) Requiring local education agencies to adopt educational facilities master plans and annual capital improvement programs;

(iii) Providing a method for establishing a maximum State construction allocation for each project approved for State funding;

(iv) Referencing the policies stated in § 5–7B–07 of the State Finance and Procurement Article;

(v) Requiring local school systems to adopt procedures consistent with the minority business enterprise policies of the State as required under the Code of Maryland Regulations;

(vi) Establishing a process for the appeal of decisions by the Interagency Committee to the Board of Public Works;

(vii) Requiring local education agencies to adopt, implement, and periodically update comprehensive maintenance plans; and

(viii) Authorizing the Board of Public Works to withhold State public school construction funds from a local education agency that fails to comply with the requirements of item (vii) of this paragraph.

(4) In adopting any of these requirements, the State Board and the Board of Public Works shall provide for the maximum exercise of initiative by school personnel in each county to ensure that the school buildings and improvements meet both the needs of the local communities and the rules and regulations necessary to ensure the proper operation of this section and the prudent expenditure of State funds.

(e) The Board of Public Works shall develop the rules, regulations, and procedures authorized by this section in consultation with representatives of the county boards and the county governing bodies.

(f) The regulations and procedures of the Board of Public Works adopted under this section and their promulgation are exempt from § 8–127(b) of the State Finance and Procurement Article.

(g) (1) With respect to public school construction or public school capital improvements, including sites for school buildings, the authority, responsibilities, powers, and duties of the following are subject to the regulations adopted by the Board of Public Works under this section:

- (i) The State Board;
- (ii) The State Superintendent;
- (iii) The county governments;
- (iv) The county boards; and
- (v) All other State or local governmental agencies under this article.

(2) If, as to public school construction or public school capital improvements, there is any conflict between the regulations and procedures of the Board of Public Works and the authority, responsibilities, powers, and duties of the individuals and agencies specified in paragraph (1) of this subsection, the regulations and procedures of the Board of Public Works shall prevail.

(h) The obligation of the State to pay the costs of public school construction and public school capital improvements extends only to those projects or parts of projects that comply with the regulations and procedures of the Board of Public Works.

(i) (1) This subsection does not apply to the proceeds from the sale, lease, or disposition of public school buildings constructed under contracts executed before February 1, 1971.

(2) Consistent with § 4–115 of this article and regulations adopted by the Board of Public Works to implement § 4–126 of this article, the Board of Public Works may require by regulation that the portion of the proceeds received by a county from the sale, lease, or disposal of any public school building that represent State funds provided within 15 years prior to the date of the transaction shall be used solely as part of the State funding of the construction of future public school buildings in the county in which the sale, lease, or disposal occurred, if the public school building was constructed under a contract executed on or after February 1, 1971.

(3) The part of the proceeds from the sale, lease, or disposal of a public school building that fairly represents the appraised value of land and that part of the cost of the public school building that was funded by the county shall remain as the funds of the county.

(4) A transfer of interest in a public school building in connection with a

financing of the cost of construction and improvements to such buildings is not a sale, lease, or disposal of the public school facility.

(j) (1) Whether by budget bill or supplementary appropriation bill, all money appropriated to carry out the purposes of this section is a separate fund that shall be administered by the State Comptroller in accordance with the regulations adopted by the Board of Public Works.

(2) Subject to paragraph (3) of this subsection, any unexpended allocations of funds for previously approved projects shall be transferred to the fund established under paragraph (1) of this subsection.

(3) (i) Any funds approved for a county for a project that has not been contracted for within 2 years of the approval of the project, shall be:

1. Available for another eligible project in the county in the current fiscal year; or

2. Reserved for eligible projects in the county in the next fiscal year, in addition to the new funds allocated for eligible projects in the county in the next fiscal year.

(ii) Any funds reserved under subparagraph (i)2 of this paragraph that have not been used to contract for a project within 2 years of the date the funds were reserved shall be available for allocation to an eligible project in any county.

(4) On or before March 30, June 30, September 30, and December 31 of each year, the Interagency Committee shall report to the General Assembly, in accordance with § 2-1246 of the State Government Article, and the Department of Legislative Services on the balance in the fund as of the reporting date as the result of transfers or reversions required under this subsection and any expenditures.

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