

## DEPARTMENT OF EDUCATION

### Colorado State Board of Education

## RULES FOR THE ADMINISTRATION OF THE CAPITAL CONSTRUCTION EXPENDITURES RESERVE

### 1 CCR 301-64

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#### **2254117-R-1.00 Statement of Basis and Purpose**

The statute authorizing the Capital Construction Expenditures Reserve established in sections 22-54-117(1.5), (1.6), and (1.7) C.R.S., was repealed in 2008, and these rules are therefore no longer applicable.

The statutory authority for the enactment of these Rules, adopted by the State Board of Education on August 12, 2004, is found in 22-54-120, C.R.S.

22-54-120 Rules and regulations, C.R.S. allows the State Board of Education to make reasonable rules and regulations to administer a grant program, including but not limited to: the awarding and administration of grants designed to assist school districts or charter schools with capital construction projects; developing the form of the grant application and grant; developing the evaluation process for the grant applications; and developing the oversight process for the grants.

#### **2254117-R-2.00 Definitions**

Unless otherwise indicated by the context, the following definitions shall apply to the administration of the Capital Construction Expenditures Reserve:

##### **2.01 Capital Construction Grant Program**

The competitive grant program which distributes funds from the school capital construction expenditures reserve to school districts and charter schools.

##### **2.02 Capital Construction**

Capital Construction shall have the meaning set forth in section 22-54-117(1.5)(b)(I) C.R.S. as follows:

- (a) The acquisition of fixed assets or additions to fixed assets that will have benefits for more than one year and includes expenditures for the improvement, repair, remodeling, alteration, or renovation of existing school facilities or the purchase of new or replacement equipment within existing school facilities.

##### **2.03 Capital Construction Expenditures Reserve**

School Capital Construction Expenditures Reserve created pursuant to 22-54-117(1.5), C.R.S.

- (a) The capital construction expenditures reserve shall consist of an amount appropriated by the general assembly from the general fund to the state public school fund, in accordance with section 24-75-201.1 (4) (b), C.R.S.

##### **2.04 Permanent School Fund**

~~The public school fund created by Section 3 of Article IX of the State Constitution.~~

## **~~2.05 — Capital construction expenditures~~**

~~Capital construction expenditures means expenditures which result in the acquisition of fixed assets or additions to fixed assets that will have benefits for more than one year and includes expenditures for the improvement, repair, remodeling, alteration, or renovation of existing school facilities or the purchase of new or replacement equipment within existing school facilities.~~

## **~~2.06 — State Board~~**

~~The State Board of Education created pursuant to Section 1 of Article IX of the State Constitution.~~

## **~~2.07 — Department~~**

~~The Colorado Department of Education created in section 24-1-115, C.R.S.~~

## **~~2.08 — District~~**

~~School District organized and existing pursuant to law, except that school district does not include a junior college district.~~

## **~~2.09 — Charter School~~**

~~A charter school as described in Section 22-30.5-104 C.R.S., an independent charter school pursuant to 22-30.5-303 C.R.S., and an institute charter school as described in 22-30.5-502 (6), C.R.S.~~

~~(a) — 22-54-117(1.5)(II) C.R.S. states that: For purposes of this section, a “charter school” means a charter school as described in section 22-54-124(1)(f.6)(II)(A) or (B).~~

## **~~2.10 — Grant Contingency~~**

~~An amount included in a grant award to pay for issues that may occur during a project that could not have been anticipated by a district or charter school when they applied for a grant.~~

## **~~2254117-R-3.00 — Procedures for Grants~~**

### **~~3.01 Application Procedures and Timelines~~**

~~Subject to appropriation by the General Assembly or any other moneys as may be made available to the school capital construction expenditures reserve, the department will request applications for grants from districts and charter schools for capital construction projects. The application, documentation, assurances and certifications and other necessary information must be submitted on forms to be provided by the department on or before an application due date specified by the department. The due date will be announced not less than 21 days before the applications must be submitted.~~

### **~~3.02 — Application Requirements:~~**

- ~~(a) — A description of the scope and nature of the capital construction project.~~
- ~~(b) — A description of the architectural, functional, and construction standards that are to be applied to the facility that is the subject of the capital construction project.~~
- ~~(c) — The estimated amount of financial assistance needed for the capital construction project.~~

~~After the estimated amount of assistance is determined, an additional 5% will be added for new construction and 10% will be added for renovation as a grant contingency. The creation of a grant contingency assures enough funding to complete the project in the event of unforeseen circumstances.~~

- ~~(d) The form and amount of financial effort that will be provided by the school district or charter school for the capital construction project.~~
  - ~~(1) The application must include either a minimum matching contribution to the project, a matching contribution greater than the minimum calculated by the department, or a request to waive the contribution.~~
  - ~~(2) If a waiver request is submitted it should include, but not be limited to, the following:~~
    - ~~(I) District's budget commitments to the general fund, showing why the general fund cannot be used to fund the matching contribution.~~
    - ~~(II) District's budget commitments to the capital reserve fund, showing why the capital reserve fund can not be used to fund the matching contribution.~~
    - ~~(III) Amounts of fund reserves carried over from the prior year and why they can not be used to fund the matching contribution (Do not include TABOR Reserves).~~
    - ~~(III) The level of support that the district has received from the local community in relation to bond elections for capital construction.~~
    - ~~(IV) Additional circumstances that make it financially impractical or impossible to provide the matching contribution.~~
  - ~~(3) A waiver request should include additional issues or impacts that are inhibiting the districts ability to make the financial commitment of a matching contribution to the project. These could include, but are not limited to, the following:~~
    - ~~(I) Increased insurance costs~~
    - ~~(II) Increased salaries~~
    - ~~(III) Other increased expenses~~
    - ~~(IV) Declining enrollment~~
    - ~~(V) Additional projects the district has undertaken or additional projects for which the district has budgeted or is saving.~~
    - ~~(VI) Upgrades to technology, textbooks, facilities or other upgrades being contemplated or undertaken beyond the submitted projects.~~
    - ~~(VII) Recent unexpected maintenance to facilities or equipment.~~
    - ~~(VIII) Planned maintenance or equipment replacement.~~
    - ~~(IX) Busses and other capital purchases.~~
- ~~(e) A demonstration of the district's or charter school's ability and willingness to maintain any new capital construction project funded.~~

- ~~(f) — Assurances and Certifications.~~
- ~~(g) — Such other information the State Board may require for the evaluation of the capital construction project.~~
- ~~(h) — Signature page.~~

### **~~3.03 — Review Procedures~~**

- ~~(a) — The department shall review the applications received from districts and charter schools, and summarize the applications.
  - ~~(1) — Staff may be assisted by an Advisory Committee appointed by the State Board. The Advisory Committee shall represent, to the extent possible, school districts, expertise in construction and facility planning, legislators, and others as may be deemed helpful in reviewing applications.~~~~
- ~~(b) — The department will schedule as many meetings as necessary to thoroughly review the projects, determine which projects will be funded, and the amount of funding to make available for each project.~~
- ~~(c) — The department shall submit a list of eligible capital construction projects recommended for approval, along with the amount of financial assistance to be provided for each eligible capital construction project based upon information provided by the school district or charter school in the application to the State Board.~~
- ~~(d) — The State Board shall review and approve a list of school districts and charter schools to receive matching grants for capital construction projects, along with the amount of each grant and the amount of the school district or charter school match.~~
- ~~(e) — The department will then award grants to the districts and charter schools from the approved list.~~

### **~~3.04 — Eligible Projects.~~**

- ~~(1) — Projects which result in the acquisition of fixed assets or additions to fixed assets that will have benefits for more than one year and include expenditures for the improvement, repair, remodeling, alteration, or renovation of existing school facilities or the purchase of new or replacement equipment within existing school facilities.~~
- ~~(2) — Grants shall not be provided for any portion of a capital construction project involving athletic, recreational, or other noninstructional facilities within the district, even if such facilities are located on a school site.~~

### **~~3.05 — Evaluation criteria in descending order of importance.~~**

- ~~(a) — Projects that address immediate safety hazards or health concerns within existing school facilities.~~
- ~~(b) — Projects that relieve excessive operating costs created by insufficient maintenance or construction spending which are currently required to be expended by the district.~~
- ~~(c) — Projects that relieve building construction conditions which detract from an effective learning environment.~~

**~~3.06 — The department may consider other information, as necessary. Other information may include, but is not limited to:~~**

~~(a) — Supplemental Requests.~~

~~If a district or charter school has previously received a grant for a project and does not have enough funding to complete the project because original estimates were too low, or hidden conditions, or other issues have arisen, the district or charter school may apply for supplemental funding for the previously awarded grant. A supplemental request may receive priority so a project that has been started can be completed.~~

~~(b) — The amount of the matching contribution being provided.~~

~~(c) — A district's or charter school's general fund balance.~~

~~(d) — A district's or charter school's capital reserve fund balance.~~

~~(e) — Number of previous capital construction grants and the amounts of the awards a district or charter school has received.~~

~~(f) — If the project being considered is a continuation of a previously awarded project.~~

~~(g) — Overall financial performance of the district.~~

~~(h) — If the district or charter school has a current facility master plan.~~

~~(i) — The ranking of the project.~~

~~(j) — If accomplishing the project will prevent other or ongoing damage to a facility from occurring.~~

~~(k) — Capital construction projects in a school district that has a lower relative wealth compared to other school districts in the state based on the per pupil assessed valuation within the district.~~

~~(l) — Capital construction projects in a school district that has reached ninety percent or more of its limit on bonded indebtedness under section 22-42-104, C.R.S.~~

~~(m) — The district ranking as defined in 3.07(a)~~

**~~3.07 — District rankings.~~**

~~(a) — The districts shall be ranked using the criteria in 3.06 (k) and (l), the district's mill levy and the number of bond defeats in the last 10 years. These criteria shall also be used to determine the minimum percentage of matching required from each district.~~

**~~3.08 — Back-Up projects.~~**

~~(a) — In addition to the list of projects submitted by the department to the State Board for review and approval, the department shall submit a prioritized list of back-up projects for the State Board to approve.~~

~~(b) — The department will award projects from the back-up list as funds become available from districts and charter schools whose projects were completed for less than the amount awarded.~~

**~~3.09 — Award Procedures~~**

- ~~(a) The department shall award grants to districts and charter schools immediately following State Board approval.~~
- ~~(b) In the case of a back-up project, the award will not occur until previously awarded projects are completed, a final report is received from the district or charter school completing the project, and the unused amount has been confirmed.~~
- ~~(c) The department shall provide a letter to districts and charter schools that applied for and did not receive a grant explaining the reasons that their projects were not awarded.~~

### **3.10 Payment and Oversight**

#### ~~(a) Payment.~~

- ~~(1) Payment of grant funds will be on a draw basis. As a district or charter school expends funds on an awarded grant project, the district or charter school may submit a request for funds to the department on a fund request form provided by the department. The fund request must be accompanied by copies of invoices from the vendors for which reimbursement is being requested.~~
- ~~(2) The department will review the fund request and make payment to the district. Payments will only be made for work that is included in the project scope of work defined in the grant application.~~
- ~~(3) If the grantee is a charter school within a district, payment shall be made to the district and the district will make payment to the charter school. The district may not retain any portion of the moneys for any reason.~~
- ~~(4) If the grantee is an independent, state, charter school, payment shall be made to the charter school.~~

#### ~~(b) Oversight~~

- ~~(1) Districts and charter schools will be required to submit a progress report to the department by July 31 of each year on a department provided form for each grant they have received and have not closed out.~~
- ~~(2) When a district or charter school completes a grant project they must submit a final report to the department on a department provided form before final payment will be made. Once the final report is submitted and final payment is made, the grant shall be considered closed.~~
- ~~(3) If the district or charter school has not used all of the awarded funding on a closed out grant project, the unused balance will be awarded to a back-up project.~~
- ~~(4) The department may make site visits to a district or charter school to review project progress or to review a completed project.~~
- ~~(5) The department will review requests to use the grant contingency to verify that the request is for an issue that could not have been anticipated at the time of the grant application and that the request is not for a change in scope or enhancement to the project.~~
- ~~(6) The department may require a district receiving a grant to hire additional independent professional construction management to represent the district's interests, if the~~

~~department deems it necessary due to the size of the project, the complexity of the project, or the districts ability to manage the project with district personnel.~~

**~~3.11~~ Technical consultation.**

- ~~(a) The department shall provide technical consultation and administrative services to districts and charter schools to evaluate the need for capital construction expenditures and the districts' and charter schools' plans for expending any assistance received.~~