

## DEPARTMENT OF EDUCATION

### Colorado State Board of Education

## RULES FOR THE ADMINISTRATION OF THE SCHOOL DISTRICT CAPITAL CONSTRUCTION ASSISTANCE PROGRAM

### 1 CCR 301-63

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#### 2243.7-R-1.00 Statement of Basis and Purpose

The statute authorizing the School District Capital Construction Assistance Program, established in sections 22-43.7-101 through 106, C.R.S., was repealed and reenacted in 2008, and these rules are therefore no longer applicable.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 and amended on February 10, 2005, is found in 22-43.7-101 through 106, C.R.S.~~

~~The School District Capital Construction Assistance Program, 22-43.7-101 through 106, C.R.S. allows the State Board of Education to promulgate rules to implement a grant program and a loan program, including but not limited to: the awarding and administration of grants designed to assist school districts or charter schools with capital construction projects; the awarding and administration of loans designed to assist school districts with capital construction projects; developing the form of the grant and loan application; developing the evaluation process for the grant and loan applications; and developing the oversight process for the grants and loans.~~

#### ~~2243.7-R-2.00 Definitions~~

~~Unless otherwise indicated by the context, the following definitions shall apply to the administration of the School District Capital Construction Assistance Program:~~

##### ~~2.01—Capital Construction Grant Program~~

~~The School District Capital Construction Assistance Program.~~

##### ~~2.02—Capital Construction~~

~~Capital Construction shall have the meaning set forth in section 24-75-301 (1) C.R.S. as follows:~~

- ~~(a) —Purchase of land, regardless of the value thereof.~~
- ~~(b) —Purchase, construction, or demolition of buildings or other physical facilities, including utilities and state highways or remodeling or renovation of existing buildings or other physical facilities, including utilities and state highways to make physical changes necessitated by changes in the program, to meet standards required by applicable codes, to correct other conditions hazardous to the health and safety of persons which are not covered by codes, to effect conservation of energy resources, to effect cost savings for staffing, operations, or maintenance of the facility, or to improve appearance.~~
- ~~(c) —Site improvement or development.~~

- ~~(d) — Purchase and installation of the fixed and movable equipment necessary for the operation of new, remodeled, or renovated buildings and other physical facilities and for the conduct of programs initially housed therein upon completion of the new construction, remodeling, or renovation.~~
- ~~(e) — Purchase of the services of architects, engineers, and other consultants to prepare plans, program documents, life-cycle cost studies, energy analyses, and other studies associated with any capital construction project and to supervise construction or execution of such capital construction projects.~~
- ~~(f) — Any item of instructional or scientific equipment if the cost will exceed fifty thousand dollars.~~

#### ~~2.03 — Construction and Renovation Fund~~

~~School Construction and Renovation Fund created pursuant to 22-43.7-103 C.R.S.~~

- ~~(a) — The fund shall consist of any moneys appropriated from the General Fund to the fund in accordance with 24-75-201.1(4)(b) C.R.S., any moneys transferred to the fund from the school capital construction expenditures reserve in accordance with 22-54-117(6)(b) C.R.S., and any other moneys as may be made available by the general assembly.~~

#### ~~2.04 — Permanent School Fund~~

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

#### ~~2.05 — State Aid~~

~~The portion of a school district's financial base of support for public education that is provided by the state pursuant to Article 54 of Title 22.~~

#### ~~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. and 22-30.5-303 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) — 22-43.7-105(1.5)(b) 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 — Loan~~

~~A loan by the state treasurer from the permanent school fund to a school district for the purpose of funding a qualified capital construction project subject to the requirements in 22-43.7-103.5, C.R.S.~~

## ~~2.11—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.~~

## ~~2243.7-R-3.00—Procedures for Grants~~

### ~~3.01—Application Procedures and Timelines~~

~~Subject to appropriation by the general assembly, transfer of funds from the School Capital Construction Expenditures Reserve or any other moneys as may be made available to the Construction and Renovation fund, the department will request applications for matching 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 but in any case no later than July 1.~~

### ~~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 a minimum matching district contribution as determined by the State Board.~~
  - ~~(2)—If a district is dependent upon passage of a bond ballot issue for the matching contribution, the bond election must occur in the same calendar year as the grant application.~~
- ~~(e)—A demonstration of the district's or charter school's ability and willingness to maintain any new capital construction project funded pursuant to this article.~~
- ~~(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 determine 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 State Board shall submit the approved list of school districts and charter schools recommended to receive matching grants for capital construction projects, and the amount of the school district or charter school match, to the general assembly's legislative committee responsible for oversight no later than August 16th of the fiscal year for which financial assistance is being sought.~~
- ~~(f) The State Board shall submit the approved list of school districts and charter schools to receive matching grants for capital construction projects, and the amount of the school district or charter school match, to the Joint Budget Committee of the general assembly no later than December 1st of the fiscal year for which financial assistance is being provided.~~
- ~~(g) The department will award grants to districts and charter schools from the approved list after the general assembly's legislative committee responsible for oversight review process is completed or after September 14 if general assembly's legislative committee responsible for oversight has not met and made their determination.~~

#### ~~3.04 Eligible Projects.~~

- ~~(a) Matching grants may be provided from the construction and renovation fund for capital construction projects involving instructional facilities, including classrooms, libraries, physical plants, and associated administrative areas, or involving the incorporation of technology into the educational environment.~~
- ~~(b) Matching 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 Statutory evaluation criteria in descending order of importance per 22-43.7-105(5)(a) through 22-43.7-105(5)(f) C.R.S.~~

- ~~(a) 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.~~

- ~~(b) 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.~~
- ~~(c) Capital construction projects that will address safety hazards or health concerns at existing school facilities, considering the age of the facilities and any previous renovation work or controlled maintenance that has been performed at the facilities if such projects could not qualify for funding or were not approved for funding from the School Capital Construction Expenditures Reserve pursuant to section 22-54-117 (1.5).~~
- ~~(d) Capital construction projects in a school district that has previously demonstrated consistent efforts to allocate moneys to the district's capital reserve fund in excess of the minimum amounts required pursuant to section 22-54-105 (2).~~
- ~~(e) Capital construction projects that are designed to incorporate technology into the educational environment.~~
- ~~(f) All other capital construction projects.~~

~~3.06 Additional evaluation considerations.~~

~~The department may consider other information, as necessary, when evaluating districts and projects. 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 due to hidden conditions or due to other issues that may 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 that 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.~~

~~3.07 District and project rankings.~~

- ~~(a) The districts shall be ranked using the criteria in 3.05(a) and 3.05(b), 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.~~
- ~~(b) The projects shall be ranked so that projects addressing health or safety issues are ranked the highest; projects addressing maintenance issues will be ranked lower than health or safety issues; and projects that address improving the learning environment are ranked after maintenance issues.~~

### ~~3.08 Back-Up projects.~~

- ~~(a) In addition to the prioritized list of projects prepared by the department for the State Board to approve for award (Reference 3.03(c)) the department may prepare a prioritized list of back-up projects for the State Board to approve. The State Board shall submit the approved list of back-up projects to the general assembly's Legislative Committee responsible for oversight no later than August 16th of the fiscal year for which financial assistance is being sought.~~
- ~~(b) Back-up projects will be approved only when there are projects on the prioritized list that are dependent upon passage of a bond ballot issue for districts to be able to provide matching funds. If any or all of the bond ballot issues are not successful and districts on the prioritized list can not provide matching funds, then the funds obligated for those districts would be awarded to back-up projects in the prioritized order approved.~~

### ~~3.09 Award Procedures~~

- ~~(a) The department will award grants to districts and charter schools from the approved list after the general assembly's legislative committee responsible for oversight review process is completed or after September 14 if general assembly's legislative committee responsible for oversight has not met and made their determination. If an award is contingent upon a district passing a bond ballot issue to be able to provide matching funds, the award will not be made until the department receives notification that the bond election was successful and the district can provide matching funds.~~
- ~~(b) In the case of a back-up project, the award will not occur unless a district on the prioritized list that is dependent upon passage of a bond ballot issue notifies the department that the ballot issue did not pass and the district cannot provide matching funds.~~
- ~~(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 provided 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 that 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 to be closed. If a district or charter school has not used all of the awarded funding on a closed out grant project, the unused balance will become un-obligated and will remain in the construction and renovation fund to be used in future funding cycles.~~

~~(3) The department may make site visits to a district or charter school to review project progress or to review a completed project.~~

~~(4) The department will review requests for use of the grant contingency to verify the request is for an issue that could not have been anticipated at the time of the grant application and is not for a change in scope or enhancement to the project.~~

~~(5) 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.~~

## **2243.7-R-4.00 Procedures for Loans**

### **4.01 Application Procedures and Timelines**

~~(a) As authorized under the provisions of section 3 of article IX of the state constitution, the state treasurer may make loans to school districts for the purpose of funding qualified capital construction projects. Loans made pursuant to this section shall not be subject to the provisions of section 24-36-113, C.R.S., that require the state treasurer to secure the maximum rate of interest on investments of state moneys. The procedures for the making of loans shall be determined by the state treasurer subject to the following:~~

~~(1) No loan shall be authorized for any capital construction project that has not been evaluated by the State Board and included on a prioritized list prepared by the State Board.~~

~~(2) No loan shall be authorized in an amount other than the amount determined by the State Board unless the State Board approves the change in the loan amount.~~

~~(3) No loan shall be authorized unless the debt is approved by the voters of the school district.~~

- ~~(4) — No loan shall be authorized unless the method for repayment of the loan is specified in the application. If the loan is to be repaid from a property tax mill levy, such levy must be approved at the same election that authorized the creation of the debt.~~
- ~~(b) — The state treasurer shall determine the amount of the permanent school fund that may be loaned out and the rate of interest to be charged on loans. The average rate of interest charged on loans made in any calendar year must equal or exceed the percentage change in the consumer price index during the previous calendar year as defined in section 24-75-201.1 (4) (d), C.R.S. Payments of the principal of and interest on all loans shall be returned to the permanent school fund.~~
- ~~(c) — The general assembly shall appropriate money from the general fund to restore moneys to the permanent school fund, together with interest, that are lost by reason of the failure of any school district to repay a loan made pursuant to this section.~~
- ~~(d) — Administrative costs that will be incurred by the school district related to the loan may be included in the amount of the loan.~~
- ~~(e) — 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 but in any case no later than July 1.~~

#### ~~4.02 — 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 amount of the loan needed for the capital construction project.~~
- ~~(d) — Whether the voters of the school district have already approved the incurring of debt in the case of a loan or, if the election has not already been held, the anticipated date of the election.~~
- ~~(e) — A demonstration of the district's ability and willingness to maintain any new capital construction project funded pursuant to this article.~~
- ~~(f) — Assurances and Certifications.~~
- ~~(g) — Such other information the State Board may require for the evaluation of the capital construction project.~~
- ~~(h) — Signature page.~~
- ~~(i) — The form and amount of financial effort that will be provided by the school district or charter school for the capital construction project.~~

#### ~~4.03 — Review Procedures~~

- ~~(a) — The department shall review the applications received from districts, and summarize the applications.~~



- ~~(b) The department will schedule as many meetings as necessary to thoroughly review the projects, determine which projects will be funded, and determine 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 in the application to the State Board.~~
- ~~(d) The State Board shall review and approve a list of school districts to receive loans for capital construction projects, along with the amount of each loan.~~
- ~~(e) The State Treasurer shall grant loans to districts immediately following State Board approval.~~

#### ~~4.04 Eligible Projects.~~

- ~~(a) Loans may be provided from the permanent school fund for capital construction projects involving instructional facilities, including classrooms, libraries, physical plants, and associated administrative areas, or involving the incorporation of technology into the educational environment.~~
- ~~(b) Loans 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.~~

#### ~~4.05 Statutory evaluation criteria in descending order of importance per 22-43.7-105(5)(a) through 22-43.7-105(5)(f) C.R.S.~~

- ~~(a) 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.~~
- ~~(b) 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.~~
- ~~(c) Capital construction projects that will address safety hazards or health concerns at existing school facilities, considering the age of the facilities and any previous renovation work or controlled maintenance that has been performed at the facilities.~~
- ~~(d) Capital construction projects in a school district that has previously demonstrated consistent efforts to allocate moneys to the district's capital reserve fund in excess of the minimum amounts required pursuant to section 22-54-105 (2).~~
- ~~(e) Capital construction projects that are designed to incorporate technology into the educational environment.~~
- ~~(f) All other capital construction projects.~~

#### ~~4.06 Additional evaluation considerations.~~

~~The department may consider other information, as necessary, when evaluating districts and projects. Other information may include, but is not limited to:~~

- ~~(a) The amount of the matching contribution being provided.~~

- ~~(b) — A district's general fund balance.~~
- ~~(c) — A district's capital reserve fund balance.~~
- ~~(e) — Overall financial performance of the district.~~
- ~~(f) — If the district has a current facility master plan.~~
- ~~(g) — The ranking of the project.~~
- ~~(h) — If accomplishing the project will prevent other or ongoing damage to a facility from occurring~~

#### ~~4.07 — District and project rankings.~~

- ~~(a) — The districts shall be ranked using the criteria in 4.05(a) and 4.05(b), 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.~~
- ~~(b) — The projects shall be ranked so that projects addressing health or safety issues are ranked the highest; projects addressing maintenance issues will be ranked lower than health or safety issues; and projects that address improving the learning environment are ranked after maintenance issues.~~

#### ~~4.08 — Award Procedures~~

~~The State Treasurer shall grant loans to districts immediately following State Board approval.~~

#### ~~4.09 — Oversight~~

- ~~(a) — Department and/or State Treasurer staff may make site visits to a district or charter school to review project progress or to review a completed project.~~
- ~~(b) — The State Treasurer may require periodic reports on the loan.~~