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STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES  
SUBTITLE A: EDUCATION  
CHAPTER I: STATE BOARD OF EDUCATION  
SUBCHAPTER c: FINANCE

PART 151  
SCHOOL CONSTRUCTION PROGRAM

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AUTHORITY: Implementing the School Construction Law [105 ILCS 230] and authorized by Section 5-55 of that Law.

SOURCE: Emergency rules adopted at 22 Ill. Reg. 2616, effective January 16, 1998, for a maximum of 150 days; emergency rules modified in response to JCAR objection at 22 Ill. Reg. 4500; emergency rules expired June 15, 1998; emergency rules adopted at 22 Ill. Reg. 6238, effective March 24, 1998, for a maximum of 150 days; emergency rules modified in response to JCAR objection at 22 Ill. Reg. 7703; emergency expired June 15, 1998; new Part adopted at 22 Ill. Reg. 12538, effective July 6, 1998; emergency amendment at 23 Ill. Reg. 11336, effective September 1, 1999, for a maximum of 150 days; amended at 24 Ill. Reg. 497, effective January 3, 2000; amended at 24 Ill. Reg. 5661, effective March 17, 2000; amended at 26 Ill. Reg. 886, effective January 15, 2002; amended at 32 Ill. Reg. 7410, effective April 22, 2008; amended at 33 Ill. Reg. 7919, effective June 1, 2009; amended at 34 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART A: SCHOOL CONSTRUCTION PROJECT GRANTS

**Section 151.20 Eligible Applicants**

School districts, cooperative high schools and Type 40 area vocational centers that meet the requirements of the School Construction Law and this Subpart are eligible to apply for school construction project grant entitlements. A district's, high school's or center's eligibility for a school construction project grant under the minimum enrollment requirements of Section 5-25(a) of the School Construction Law shall be determined using the district's, high school's or center's enrollment in prekindergarten through grade 12 as of the last school day in September of the most recent school year. For purposes of this Subpart A, the term "district" shall be understood to include each of these eligible entities.

(Source: Amended at 34 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 151.50 Priority Ranking of Construction Grant Entitlements**

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Priority ranking of construction grant entitlements shall be done if the appropriation for any fiscal year is insufficient to fund grants for all approved grant entitlements. In this case, districts holding construction grant entitlements shall be eligible for construction grants to be awarded by the Capital Development Board in order of the priority ranking described in this Section.

- a) Districts holding grant entitlements shall be eligible for grant awards in the order of:
  - 1) the six levels of priority described in Section 5-30 of the School Construction Law; and
  - 2) the district's ranking within its level of priority, determined according to subsections (b) through (d) of this Section.
- b) A district's ranking within a level of priority shall be determined by multiplying the district's needed capacity as determined under subsection (c) of this Section by the ratio of the district's needed capacity to the district's enrollment as of the last school day in September of the most recent school year. The resulting figure shall constitute the district's ranking, with the largest figure having the highest ranking.
- c) Needed Capacity
  - 1) For each priority other than priority five, the district's needed capacity shall be calculated by subtracting its currently available capacity as determined under subsection (d) of this Section from its current enrollment or its projected enrollment, whichever is greater.
    - A) Projected enrollment shall be calculated by multiplying the district's current enrollment by the ratio of the district's current enrollment to the district's enrollment two years before.
    - B) For purposes of calculating needed capacity, projected enrollment shall not include any increase in enrollment attributable to a change in the district's boundaries.
  - 2) For priority five, the district's needed capacity shall be the number of qualified individuals with disabilities who require a school construction project.

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d) Determination of Available Capacity

- 1) The enrollment capacity of each room or space currently subject to occupancy by students for instructional purposes in a district-owned, permanent building, or in a building leased by the district if the lease is at least ten years from expiration, shall be determined by dividing the net floor area (in square feet) of ~~the such~~ room or space by the appropriate loading factor, as follows:

Type of Room or Space	Loading Factor
Prekindergarten Classroom	40
Kindergarten Classroom	40
Elementary General Classroom	35
Elementary Art Classroom	40
Elementary Music Classroom	30
Elementary Computer Classroom	35
Middle School General Classroom	35
Middle School Art Classroom	40
Middle School Family and Consumer Sciences Classroom	50
Middle School Music Classroom	25
Middle School Computer Classroom	40
Middle School Science Laboratory	40
Middle School Science Laboratory/Classroom	50
Middle School Industrial Technology Laboratory/Shop Not Classified Elsewhere	40
High School General Classroom	30
High School Art Classroom	35
High School Music Classroom	25
High School Computer Classroom	40
High School Family and Consumer Sciences Classroom	60
High School Science Laboratory	35
High School Industrial Technology Laboratory/Shop	75
High School Laboratory Not Classified Elsewhere	35
Special Education Classroom	50

- 2) Buildings and additions with a functional age over one hundred years old shall be assigned an enrollment capacity of zero. The functional age of a

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building and each of its additions shall be individually determined by multiplying its actual age by one of the following condition factors, to be determined using the Building Condition Evaluation Form supplied by the State Board of Education:

Condition of Building or Addition	Condition Factor
Excellent	0.2
Satisfactory	0.4
Substandard	1.0
Poor	1.5
Very Poor	2.0

3) As used in this subsection (d), “permanent building” means a building mounted on a slab or a permanent foundation. A permanent foundation is a closed-perimeter formation consisting of materials such as concrete, mortared concrete block, or mortared brick extending into the ground below the frost line which may include but not be limited to cellars, basements, or crawlspaces but does not include the sole use of piers.

4) Available capacity shall be calculated by multiplying enrollment capacity as determined in subsections (d)(1) through (d)(3) of this Section by the following utilization factors:

A) elementary schools	0.9
B) middle or junior high schools	0.85
C) high schools	0.8

e) A new order of priority ranking shall be established among the applicants for each fiscal year. If a district is not awarded a construction grant in a fiscal year for which it has received an entitlement, the district must update its application to establish its priority ranking for the following fiscal year.

f) Type 40 area vocational centers shall be placed last on the priority listing of eligible entities for the applicable fiscal year. [105 ILCS 230/5-25]

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(Source: Amended at 34 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART B: SCHOOL MAINTENANCE PROJECT GRANTS

**Section 151.100 Purpose; Eligible Applicants**

- a) This Subpart implements the School Construction Law [105 ILCS 230], which requires that the State Board of Education issue grants for school maintenance projects.
- b) Any school district, cooperative high school or Type 40 area vocational center charter school, public university laboratory school approved by the State Board of Education pursuant to Section 18-8.05(K) of the School Code [105 ILCS 5/18-8.05(K)], or area vocational center may apply for a grant. An eligible applicant may apply for and receive more than one grant during a fiscal year. For purposes of this Subpart B, the term “district” shall be understood to include each of these eligible entities.

(Source: Amended at 34 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 151.110 Definitions**

As used in this Subpart:

“Emergency project” means a project made necessary by a disaster described in Section 5-30(1) of the School Construction Law. Conditions caused by age or lack of timely maintenance shall not constitute an emergency. Costs of an emergency project that are covered by insurance may not be claimed as part of an emergency project.

“Grant” means a school maintenance project grant.

“Health/life safety project” means a project that is necessary to correct a violation of the Health/Life Safety Code for Public Schools (23 Ill. Adm. Code 180) or to provide handicapped accessibility or school security.

“Ongoing operational costs” means ordinary maintenance expenses incurred in the course of the applicant's operations, including expenses for employee salaries and benefits, materials, and supplies.

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“Other project” means a project other than an emergency project, health/life safety project, State program priority project or permanent improvement project.

“Permanent improvement project” means a project designed to upgrade or install building systems (e.g., air conditioning, electrical or plumbing systems) or involving other improvements to a building or structure so that the building or structure is better adapted to the applicant's educational programs.

“School maintenance project” or “project” means *a project, other than a school construction project as defined in Section 5-5 of the School Construction Law or a school energy efficiency project as defined in Section 5-200 of the School Construction Law, intended to provide for the maintenance or upkeep of buildings or structures for educational purposes, but does not include ongoing operational costs* [105 ILCS 230/5-5 and 5-200]. A project may involve different types of work on a single building or structure, or may involve a single type of work (e.g., new roofing or windows) on several buildings or structures. ~~Work on a project must have started on or after May 1, prior to the fiscal year for which a grant is sought.~~ There is no limit to the cost of a project; however, grant awards shall not exceed \$50,000 per project, and applicants shall provide a match from local funds equal to the grant amount requested.

“State program priority project” means a project that is necessary for energy conservation or that adapts a building or structure to better serve students in a specific program for which the applicant receives funding under the School Code (e.g., preschool education ~~prekindergarten at risk~~, school technology).

(Source: Amended at 34 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 151.120 Application for School Maintenance Project Grants**

- a) An eligible applicant may apply for a grant by submitting an application electronically in a format prescribed ~~on a form provided~~ by the State Superintendent Board of Education. A separate application shall be submitted for each project for which the applicant seeks a grant award.
- b) ~~Up to \$1 million shall be reserved each fiscal year for emergency projects. If funds, other than funds reserved for emergency projects, remain after the award of grants from the announced application cycle, a second application period will be~~

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~~held. If funds reserved for emergency grants remain at the end of the fiscal year, these funds shall be distributed for other approved projects from the latest application cycle.~~

- e) ~~An application for a grant for an emergency project shall be submitted directly to the State Board of Education by the deadline stipulated on the application. A copy shall also be sent to the regional superintendent of education. Emergency applications shall be submitted to the following address:~~

~~Illinois State Board of Education  
School Maintenance Project Program  
100 North First Street  
Springfield, Illinois 62777-0001~~

- a)d) ~~All other applications~~ Except as provided under subsection (e) of this Section, an application shall be submitted electronically to the regional office of education at least two weeks prior to the application deadline announced by the State Superintendent Board of Education for the fiscal year for which the grant is sought. The regional superintendent shall review and electronically forward the application applications to the State Superintendent Board of Education at the address stipulated in subsection (e) of this Section by the application deadline.

- e) ~~An application that is incomplete shall be returned and shall not be processed until it is complete. An application must be complete by the applicable submission deadline in order to be considered. All information contained in the application shall be subject to verification and correction by the State Board of Education by such means as on-site inspection and review of documents.~~

- b)f) Each application shall include the following information.

- 1) The names, addresses, and descriptions of the facilities included in the project.
- 2) A narrative description of the nature and scope of the project, including the starting and completion dates for the project.
- 3) The total cost of the project, amount and source of local matching funds (using the revenue and account codes as set forth at 23 Ill. Adm. Code 100

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(Requirements for Accounting, Budgeting, Financial Reporting, and Auditing)), and the requested grant amount.

- 4) The priority category of the project (see Section 151.130(b)(2) of this Part).
    - A) For an emergency project, the applicant shall indicate the date and nature of the emergency and the extent of building damage.
    - B) For a health/life safety project necessary to correct a code violation, the applicant shall identify the health/life safety work by amendment number.
  - 5) For applicants that are seeking more than one grant in a fiscal year, the order in which the applicant wants its projects funded.
  - 6) Such assurances as the State ~~Superintendent Board of Education~~ may require, to include at least the following:
    - A) that the local board of education, in the case of school districts, or other school governing authority authorized the school maintenance project during a duly convened meeting, and
    - B) that the local board of education, in the case of school districts, or other school governing authority reserved local funds in an amount equal to the school maintenance project grant requested to meet the local match requirement.
- ~~c)g)~~ Submission of the electronic application shall be evidence of authorization by the school board or other governing board. Each application shall bear an original signature of the president of the local board of education or other school governing authority.
- d) An applicant submitting an incomplete application shall be contacted by staff of the State Board regarding the need for additional information. An application must be complete by the applicable submission deadline in order to be considered. All information contained in the application shall be subject to verification and correction by the State Superintendent by such means as on-site inspection and review of documents.

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- e) An application for a grant for an emergency project shall be submitted electronically directly to the State Superintendent by the deadline stipulated on the application. A copy shall also be submitted to the regional superintendent of education.
- f) Up to \$1 million shall be reserved each fiscal year for emergency projects. If funds, other than funds reserved for emergency projects, remain after the award of grants from the announced application cycle, then a second application period will be held. If funds reserved for emergency grants remain at the end of the fiscal year, then these funds shall be distributed for other approved projects from the latest application cycle.

(Source: Amended at 34 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

SUBPART C: SCHOOL ENERGY EFFICIENCY PROJECT GRANTS

**Section 151.200 Purpose; Eligible Applicants**

- a) This Subpart implements Section 5-200 of the School Construction Law [105 ILCS 230/5-200], which requires that the State Board of Education issue grants for school energy efficiency projects.
- b) Any school district, charter school, public university laboratory school approved by the State Board of Education pursuant to Section 18-8.05(K) of the School Code [105 ILCS 5/18-8.05(K)], or area vocational center may apply for a grant. An eligible applicant may apply for and receive more than one grant during a fiscal year. Applications not awarded funding in a fiscal year may reapply in a subsequent fiscal year, provided the proposed work has not been started or completed.

(Source: Added at 34 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 151.210 Definitions**

As used in this Subpart:

"Energy efficiency project" means any improvement, repair, alteration, or betterment of any building or facility owned or operated by an eligible applicant

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as set forth in Section 151.220 of this Part, or any equipment, fixture, or furnishing to be added to or used in any building or facility, subject to the building code authorized in Section 2-3.12 of the School Code [105 ILCS 5/2-3.12 (see 23 Ill. Adm. Code 180)], that is designed to reduce energy consumption and may include, without limitation, one or more of the following:

Insulation of the building structure or systems within the building;

Storm windows or doors, caulking or weather stripping, multi-glazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, additional glazing, reductions in glass area, or other window and door system modifications that reduce energy consumption;

Automated or computerized energy control systems;

Heating, ventilating, air conditioning, or HVAC system repairs or replacements (this does not include initial installations);

Replacement or modification of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility, unless an increase in illumination is necessary to conform to the applicable building code for the lighting system after the proposed modifications are made;

Energy recovery systems;

Energy conservation measures that provide long-term cost reductions;

Alternative energy systems, including but not limited to wind power or solar power systems; and

Other projects designed to reduce the consumption or use of energy.

An energy efficiency project may involve different types of work on a single building or structure, or may involve a single type of work (e.g., new roofing or windows) on several buildings or structures. There is no limit to the cost of a project; however, grant awards shall not exceed \$250,000 per project per fiscal year, and applicants shall provide a

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match from local funds and/or eligible federal or other funds equal to the grant amount requested (see Section 5-200(a) of the School Construction Law).

"Grant" means a school energy efficiency project grant.

(Source: Added at 34 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 151.220 Application for School Energy Efficiency Project Grants**

- a) An eligible applicant may apply for a grant by submitting an application electronically in a format prescribed by the State Superintendent. A separate application shall be submitted for each project for which the applicant seeks a grant award.
- b) An application shall first be submitted electronically to the regional office of education at least two weeks prior to the application deadline announced by the State Superintendent for the fiscal year for which the grant is sought. The regional superintendent shall review and electronically forward the application to the State Board of Education by the application deadline.
- c) Each application shall include the following information.
  - 1) The names, addresses, and descriptions of the facilities included in the project.
  - 2) A narrative description of the nature and scope of the project, including the starting and completion dates for the project.
  - 3) The total cost of the project, amount and source of local matching funds (using the revenue and account codes as set forth at 23 Ill. Adm. Code 100 (Requirements for Accounting, Budgeting, Financial Reporting, and Auditing)) and the requested grant amount.
  - 4) For applicants that are seeking more than one grant in a fiscal year, the order in which the applicant wants its projects funded.
  - 5) Such assurances as the State Board of Education may require, to include at least the following:

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- A) certification by a licensed design professional of the reasonableness of the estimated costs and energy efficiency measures, and if available at the time application is made, an estimate of the annual energy savings that will be realized;
  - B) that the local board of education, in the case of school districts, or other school governing authority authorized the school energy efficiency project during a duly convened meeting; and
  - C) that the local board of education, in the case of school districts, or other school governing authority reserved local funds in an amount equal to the school energy efficiency project grant requested to meet the local match requirement.
- d) Submission of the electronic application shall be evidence of authorization by the school board or other governing board.
- e) An applicant submitting an incomplete application shall be contacted by staff of the State Board regarding the need for additional information. An application must be complete by the submission deadline in order to be considered. All information contained in the application shall be subject to verification and correction by the State Superintendent by such means as on-site inspection and review of documents.

(Source: Added at 34 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 151.230 Award of School Energy Efficiency Project Grants – Applicants With a Population of 500,000 or Fewer**

Grant awards to applicants with a population of 500,000 or fewer residents shall be made as provided in this Section.

- a) An applicant that submits a timely, complete and accurate application that is in compliance with the School Construction Law and this Subpart and that indicates that the applicant has a qualifying project shall be awarded a grant for the approved project provided that the appropriation is sufficient to fund the grant.

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- b) If the appropriation for any fiscal year is insufficient to fund all approved projects, then grants shall be awarded in the following order until the appropriation is exhausted.
- 1) Grants shall be awarded in rounds, with each applicant being allowed one approved project per round.
  - 2) Within each round, grants shall be awarded in order of the applicant's need index, proceeding from greatest to least.
- c) For a school district applicant, the need index shall be determined by dividing the equalized assessed valuation per pupil in average daily attendance of the school district at the 90th percentile of wealth for districts of that type (i.e., elementary, high school, or unit) by the equalized assessed valuation per pupil in average daily attendance of the applicant.
- 1) For an applicant that does not possess property taxing authority, its equalized assessed valuation per pupil in average daily attendance shall be that of the school district in which the greatest number of the applicant's students reside.
  - 2) For purposes of calculating the need index, the equalized assessed valuation and average daily attendance shall be taken from the general state aid claims filed in the fiscal year for which a grant is made. The average daily attendance to be used shall be the district's best three months average daily attendance.

(Source: Added at 34 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 151.235 Award of School Energy Efficiency Project Grants – School Districts With a Population Exceeding 500,000**

A school district with a population exceeding 500,000 residents that submits timely, complete and accurate applications in compliance with the School Construction Law and this Subpart shall be awarded grants in the amount provided by Section 5-200(c) of the School Construction Law.

(Source: Added at 34 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 151.240 Terms of the Grant**

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- a) Grants shall be subject to the Illinois Grant Funds Recovery Act [30 ILCS 705]. Any grant funds not expended or legally obligated within two years after disbursement by the State shall be returned to the State Board of Education within 45 days.
  
- b) Grant funds may only be used for the project described in the approved application and shall be accounted for in compliance with applicable accounting rules set forth at 23 Ill. Adm. Code 100 (Requirements for Accounting, Budgeting, Financial Reporting, and Auditing). The applicant must provide local matching funds in an amount equal to the grant. If actual project expenditures are less than expected so that the amount of the grant is greater than 50 percent of the total project expenditures, then the applicant shall refund the amount of the grant that is in excess of 50 percent of actual project expenditures.
  
- c) Upon completion of the project a final expenditure report, subject to audit, shall be submitted to the regional office of education and State Superintendent or designee within 30 days of final project closeout. The licensed design professional shall certify the final expenditure report. The final expenditure report shall describe the use of the grant funds.
  
- d) The applicant shall comply with the School Construction Law, this Subpart and all other applicable laws and regulations in completing a project.

(Source: Added at 34 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)