

2. REGULATION PAGE

R-39 Rev. 03/2012
(Title page)

IMPORTANT: Read instructions on back of last page (Certification Page) before completing this form. Failure to comply with instructions may cause disapproval of proposed Regulations

State of Connecticut
REGULATION
of

NAME OF AGENCY

[State Board of Education] State Department of Construction Services

Concerning

SUBJECT MATTER OF REGULATION

School Construction Grants

Sec. 10-287c-1. Definitions

As used in Sections 10-287c-1 to 10-287c-21, inclusive:

(1) "Applicant" means any local or regional board of education, regional educational service center, or incorporated or endowed high school or academy eligible for a school construction grant commitment pursuant to section 10-285b of the Connecticut General Statutes;

(2) ~~"Board" means the state board of education;~~

(3) ~~(2)~~ "Commissioner" means the commissioner of the state department of ~~education~~
~~CONSTRUCTION SERVICES;~~

(4) ~~(3)~~ "Department" means the state department of ~~education~~~~CONSTRUCTION SERVICES;~~

(5) ~~(4)~~ "Educational Specifications" means a description of the general nature and purpose of the proposed school building project, which may include the applicant's long range educational plan and the relationship of the proposed project to such plan; enrollment data and proposed project capacity; the nature and organization of the educational program; support facilities; space needs; accommodation for educational technology; specialized equipment; and site needs, and any other supporting documents deemed necessary by the commissioner;

(6) ~~(5)~~ "Filing" means receipt;

(7) ~~(6)~~ "Final grant payment" means the grant payment for a school construction project after which no further amount, other than an interest subsidy grant, is due the applicant, and its date shall be the date on which the check for such payment is issued or electronic transfer of funds is made;

(8) ~~(7)~~ "Interest grant" means a grant for the state's share of interest costs on bonds or serial notes, or short term notes issued by a municipality to permanently finance the cost of a school building project;

(9) ~~(8)~~ "Legislative body" means the board of education of a regional school district, the governing board of a regional educational service center or incorporated or endowed high school or academy eligible for a school construction grant commitment pursuant to said section 10-285b, or the governing body of any municipality;

(10) ~~(9)~~ "Limited eligible projects" means those projects eligible for a reimbursement percentage other than the percentage described in Section 10-285a of the Connecticut General Statutes;

(11) ~~(10)~~ "Permanently financed" means financed from the proceeds of serial notes or bonds, energy conservation lease purchase agreements, as defined in section 10-282 of the Connecticut General Statutes or other long-term debt instruments deemed acceptable or equivalent by the commissioner;

[(12)] ~~(11)~~ "Project costs" means the aggregate of the costs properly chargeable to a project, as determined by the [board] DEPARTMENT, except interest on temporary borrowings;

[(13)] ~~(12)~~ "Short term notes" means the method of funding of school construction projects as described in Section 10-289a of the Connecticut General Statutes;

[(14)] ~~(13)~~ "Temporary borrowing" means amounts borrowed in anticipation of the receipt of the proceeds of serial notes or bonds.

Sec. 10-287c-2.

Repealed, July 28, 1986.

Sec. 10-287c-3. Commitments for grants (Reference: Section 10-287a)

A commitment for a grant under section 10-287a will be made by the Commissioner, subject to the approval of the state bond commission, at such time or times during the development of a project and in such manner as the Commissioner shall prescribe.

(Effective August 25, 1989)

Sec. 10-287c-4 Commitment limitations (reference: Section 10-287a)

No commitment for a grant under section 10-287a shall be made until the Commissioner shall have received assurances from the applicant (1) that the application for the grant and the acceptance thereof have been duly authorized, (2) that all proceeds of the grant will be used to meet project costs, or, to the extent provided for such purpose, site acquisition costs, (3) that records will be maintained which will fully disclose all project and site acquisition costs and the amount, source and disposition of all funds received for the payment thereof and such other records as the Commissioner shall prescribe to facilitate an effective audit; such records to be maintained for a period of three years following final payment of the grant under section 10-287a or such other period as [the] ~~THE~~ Commissioner shall prescribe, and (4) that the Commissioner or any duly authorized representatives shall have access, for the purpose of audit and examination, to any books, documents, papers and records of the applicant that are pertinent to the grant and that the applicant shall submit to the Commissioner such documents and information as the Commissioner may require in connection with the project.

(Effective August 25, 1989)

Sec. 10-287c-5, Payment of school construction grants (Reference: Section 10-287a)

Grant payments pursuant to Section 10-287a shall be made as follows:

(a) With respect to a project which has been completed, it shall be made forthwith upon a determination by the Commissioner of the project costs, and, if the grant is made in part to meet site acquisition costs, of the site acquisition costs.

(b) Advances against a grant with respect to a project not completed may be made at such time or times as the Commissioner shall determine but in no event at earlier times or in greater amounts than as follows: (1) thirty percent of the estimated grant amount when thirty percent of the project construction has been completed; (2) thirty percent of the estimated grant amount when sixty percent of the project construction has been completed; and (3) thirty percent of the estimated grant amount when ninety percent of the project construction has been completed.

(c) The final installment of the grant shall be paid when the project has been completed and the Commissioner has determined the final project costs, and, if the grant is in part to meet site acquisition costs, the final site acquisition costs.

(d) All grant payments shall be applied promptly toward project costs or toward repayment of temporary notes as the same become due and payable.

(e) If an examination and audit discloses that an overpayment of a grant has been made to the applicant, the amount of such overpayment shall be repaid forthwith.
(Effective August 25, 1989)

Sec. 10-287c-6. Bond interest subsidy grants (Reference: Section 10-287g)

(a) The amount of a bond issue eligible for an interest subsidy grant pursuant to Section 10-287g shall be the total of eligible project costs, not including site acquisition costs, less those project costs permanently financed by means other than the sale of serial notes or bonds, less any state grants made under Chapter 173 to defray project costs.

(b) Bond interest subsidy grants under section 10-287g shall be equal to the difference between four percent per annum and the lower of six percent per annum or the net interest cost rate on the eligible amount of bonds issued for the project involved, provided such bonds are sold at public sale.

(c) Bond interest subsidy grants under section 10-287g shall be paid semi-annually over the period of the maturity dates of the bond issue. Payments will be certified to the state comptroller on or before the first of the month immediately preceding the month in which the corresponding interest payment falls due, and will be proportioned to such payments according to the eligible amount of such bond issue.

(Effective July 28, 1986)

Sec. 10-287c-7. Portable, relocatable or demountable buildings

Where a town or district undertakes to acquire a school facility consisting of one or more portable, relocatable or demountable buildings for which a state grant application is to be made pursuant to chapter 173, all requirements of chapter 173 and these regulations shall be applicable.

(Effective July 28, 1986)

Sec. 10-287c-8.

Repealed, February 13, 1973.

Sec. 10-287c-9.

Repealed, February 13, 1973.

Sec. 10-287c-10.

Repealed, February 13, 1973.

Sec. 10-287c-11. Application for grants (Reference: Section 10-283)

(a) **Proposed School Building Project.** An applicant for a school construction grant shall file an application for such grant with the department in such manner as the Commissioner may prescribe. The application shall include: (1) one copy of the educational specifications for the project as approved by the local or regional board of education or governing body of such other eligible grant recipient and (2) one certified copy of the resolution or resolutions adopted by the legislative body of the applicant establishing a building committee for the project and authorizing at least the preparation of schematic drawings and outline specifications for the proposed project and the filing of the notice of proposed school building project. In order to be eligible for inclusion on the list of projects submitted to the Governor and General Assembly by December 15 of any year for grant commitment authorization the application shall be filed no later than June 30 of such year.

(b) **Notice of Categories.** The Commissioner shall make an initial determination as to which category established under subsection (a) of section 10-283 of the Connecticut General Statutes should apply to each proposed project. On or before October 1, the Commissioner shall notify each applicant as to the assigned category of each project. Such initial determination shall not preclude the Commissioner from placing any proposed project in another category on the basis of additional information received or developed.

(c) **Design Conference.** Except for projects reviewed and approved by local officials pursuant to subsection (b) of section 10-292 of the Connecticut General Statutes, the applicant shall attend a design conference to be scheduled by the department. The conference shall be attended by appropriate department staff, the applicant's superintendent or chief executive officer or designee, one member of the applicant's building committee, one representative of the architectural firm designated to design the project, and such others as the Commissioner may require. The Commissioner may waive such conference, conduct such conference by telephone or in person, or otherwise determine the scope and nature of such conference.

Sec. 10-287c-12. Legislative authorization for a grant commitment. (Reference: Section 10-283)

(a) **Notice of Legislative Action.** The Commissioner shall notify each applicant whose project was included on the list submitted to the general assembly as to the action taken by the general assembly within 30 days of such action.

(b) **Authorization for Grant Commitment Denied.** Any applicant not receiving an authorization for a grant commitment for a project may file a written request with the Commissioner, prior to September 1 following the consideration of such project by the General Assembly, to include such project for consideration on the next list to be submitted by the Commissioner to the Governor and the General Assembly. Failure to submit such a request shall not prohibit an applicant from submitting a new application for any project not receiving an authorization for a grant commitment.

(c) **Lapse of General Assembly Authorization.** The [commissioner] COMMISSIONER may, unless good cause is shown, disapprove a grant application for any project if the applicant has not, by June 30th of the year following the year of legislative authorization, completed all necessary steps under its charter and the general statutes to appropriate sufficient funds to pay for the project and any site acquisition costs for the project or authorized bonding or other means of financing the appropriation.

(d) The Commissioner may disapprove a grant application for any project if the applicant has not begun construction, as defined in section 10-282 of the Connecticut General Statutes, within two years after the effective date of the act of the General Assembly authorizing the Commissioner to enter into grant commitments for such projects as provided in Sections 10-283 and 10-283a of the Connecticut General Statutes. However, for good cause, extensions may be granted by the Commissioner for up to two years from the anticipated date of lapse.

Sec. 10-287c-13. Special projects. (Reference: Section 10-283)

Purchase Projects. If a proposed project involves the purchase of an existing building, the applicant shall so notify the Commissioner when filing its application of proposed school building project. If any major alterations or renovations to the building are included in such project, all provisions pertaining to the filing of plans shall apply. A grant for the cost to purchase a building and site shall be calculated pursuant to subdivision (2) of subsection (a) of Section 10-286; however, if any alterations, extensions or renovations to the building are included in such project, all other provisions of Chapter 173, including space limitations, if applicable, shall apply to such portion of the project. The purchase price of a site or the purchase price of a building and site may be negotiated, but the eligible cost of the purchase of the site or the building and site may not exceed the higher of two independent appraisals of the site or the building and its site. The department shall inspect the site or the building and site prior to the review of final plans in accordance with Section 10-292 of the Connecticut General Statutes to ensure compliance with standards as defined in section 10-282 of the Connecticut General Statutes and as contained in these Regulations. The department shall send written notification to the applicant of its conclusions for the use of the site or building and site within 30 days of the completed inspection. The cost of the purchase of the site or the building and site shall not be eligible for reimbursement unless the department has inspected and authorized the use of the site or the building and site.

Sec. 10-287c-14. Computation of grant estimates for projects submitted to the Governor and General Assembly. (Reference: Section 10-283)

(a) Grant estimates for projects other than limited eligible projects submitted to the Governor and General Assembly shall be determined by multiplying together the percentage as defined in sections 10-285a and 10-285b of the Connecticut General Statutes, with the total estimated costs of a project submitted to the department on the application for a proposed school building project.

(b) In computing interest grant estimates the department shall assume a twenty year bond issue and apply an average estimated bond interest rate based on market conditions as of July 1st of each year.

Sec. 10-287c-15. Standards (Reference: Section 10-283a)

(a) **State standard space specifications.** The standard space specifications identified in this section shall apply to all school building project grants except code and health violations, roof replacements, site acquisitions, site improvements, leasing projects, plant purchases, vocational agriculture equipment, and administrative facilities. For any building constructed prior to 1950, the standard space specifications identified in this section shall be increased by twenty-five per cent.

State Standard Space Specifications													
Grades													
Projected Enrollment	Pre-K and K	1	2	3	4	5	6	7	8	9	10	11	12
Allowable Square Footage per Pupil													
0 - 350	124	124	124	124	124	156	156	180	180	180	194	194	194
351 - 750	120	120	120	120	120	152	152	176	176	176	190	190	190
751 - 1500	116	116	116	116	116	148	148	170	170	170	184	184	184
Over 1500	112	112	112	112	112	142	142	164	164	164	178	178	178

(1) These standards shall be used as maximums for grant computation purposes. The square footage per pupil allowances for all grades housed shall be summed and divided by the number of grades housed to determine a maximum square foot per pupil for the facility.

(2) Applicants for school building projects which exceed the state standard space specifications solely as a result of extraordinary programmatic needs may apply to the Commissioner, at such time and in such manner as the Commissioner may prescribe, for a waiver of space limitations.

(b) **Standards for Site Eligibility.** To be eligible for a site acquisition grant, the site shall be used for a school building project, and shall be approved by the Commissioner in accordance with criteria which consider at least (1) The location and size of the project in relation to existing school facilities; (2) the adequacy and availability of utility services, including water, sanitary sewers, electricity and fire services; (3) the engineering, size, and shape adequacy of the site to support the school facilities; (4) compliance with zoning, wetlands, environmental protection and other laws and regulations; (5) demographic factors and population trends; (6) accessibility to the site (7) the cost of acquiring, developing, maintaining and transporting pupils to the site; and (8) the availability of other sites.

(c) **Eligible Costs.**

(1) **School Building Projects.** Eligible costs for school building projects shall include: reasonable costs of acquiring, constructing, altering or renovating buildings or structures; site preparation and development costs incurred on and for the school site; equipment and furnishings for such school buildings or school site; architectural, engineering, construction management and legal fees ordinarily

and reasonably necessary to the above costs; and bond issue costs incidental to financing the above costs, including bond advertising, preparation and printing of official statements, and bond execution costs.

(2) **Site Acquisition Costs.** Site acquisition costs shall include the actual cost of acquiring a site for a school project plus legal fees and other reasonable incidental costs necessary to such acquisition. Eligible site acquisition costs shall not exceed the higher of two independent appraisals of such site and shall not include the costs of a site or portion of a site which causes the total site to exceed: (A) The number of acres equal to the highest projected enrollment for the eight year period from the date of application divided by one hundred plus (B) ten additional acres if the project is an elementary school, or fifteen additional acres if the project is a middle school, or twenty additional acres if the project is a secondary school.

(d) **Ineligible Costs.** Eligible costs do not include: feasibility studies; textbooks and supplies; computer software, except computer operating systems; lease of facilities (other than in accordance with subdivision (9) of subsection (a) of section 10-286 of the Connecticut General Statutes); service, equipment or maintenance contracts; salaries of "in-house" administration or educational staff employed by the local board of education or municipality; site regrading, ordinary resurfacing or reseeding; relocation of facilities within site; repair of site improvements; athletic facility lighting, athletic facility parking, artificial turf; off-site town improvements and utility extensions; moving of existing facilities on-site or to another site (except where necessary for a new school plant or extension); ordinary building and built-in equipment maintenance, repair, repainting, redecoration; repair to movable equipment and furniture; ordinary repairs to or replacements of boilers, combustion equipment, or fuel storage equipment; ordinary roof repairs or replacements not specifically eligible under subdivision (7) of subsection (a) of section 10-286 of the Connecticut General Statutes; ordinary window or glass replacements; and other ordinary repairs and replacements.

Sec. 10-287c-16.

Repealed, October, 1995

Sec. 10-287c-17. Approval of Requests for State Grants. (Reference: Section 10-284)

(a) **Grant Request upon Completion of Project.** In order to receive a grant the applicant shall file a request for a grant with the Commissioner, in such manner as the Commissioner may prescribe, after the project has been completed and officially accepted by the building committee or other approving body, and the applicant, and after all bills for the project have been paid or funds to pay such bills are deposited in accordance with section 7-401 of the Connecticut General Statutes, in a separate escrow account, and after all bonds or notes to permanently finance the project, if any, have been issued. If bonds or notes are issued to permanently finance the project, such application shall include a copy of the principal and interest schedule of payments in such manner as may be required by the Commissioner. Each applicant may be required to file information concerning project costs at such time and in such manner as the Commissioner may prescribe.

(b) **Request for Estimated Grant.** Section 10-287h of the Connecticut General Statutes may entitle an applicant to estimated grant payments prior to the completion of a school building project if the applicant has issued bonds or serial notes, or has carried temporary financing into the third year. The request for an estimated grant shall be made in such manner as the Commissioner may prescribe. Upon completion of the project the Commissioner shall adjust and recertify the dates and amounts of subsequent grant payments based on the state's share of final eligible costs.

(c) **Grant Amount Agreement.** Upon approval of the grant request the Commissioner shall notify the applicant in writing as to the amount of the grant.

(d) **Notification of State Comptroller.** The Commissioner shall certify to the State Comptroller the dates and amounts of all project grant payments, interest grant payments and site acquisition grant payments, if any.

(e) **Grant Payments.** All grants shall be paid to the town, city or borough of the applicant, or if the applicant is other than a local board of education, to the governing body of such other eligible grant recipient.

(f) **Reimbursement Percentage.** The reimbursement percentage as determined in sections 10-285a and 10-285b of the Connecticut General Statutes shall be assigned to specific school building projects as follows: (1) All projects except those pursuant to subsection (b) of section 10-283 of the Connecticut General Statutes shall be assigned the rate in effect for the fiscal year during which General Assembly authorization is obtained. (2) Projects pursuant to subsection (b) of section 10-283 of the Connecticut General Statutes shall be assigned the rate in effect for the fiscal year during which application, as defined in 10-282 of the Connecticut General Statutes, is made.

(g) **Applicability of Regulations.** Rules, guidelines or regulations in effect at the time of application, as defined in said Section 10-282, shall be applied when final grant calculations are made for school construction projects pursuant to Chapter 173 of the Connecticut General Statutes, unless otherwise provided by sections 10-287c-1 to 10-287c-23, inclusive, of the regulations of Connecticut state agencies or by statute.

Sec. 10-287c-18. Computation of Grants-Spectator Seating in a Gymnasium and Seating Area in an Auditorium. (Reference: Section 10-286)

(a) **Spectator Seating in a Gymnasium.** For the purpose of determining the limited eligibility of the area of spectator seating in a gymnasium, retractable bleachers will be construed to occupy no area. In such cases limited eligibility shall apply only to the cost of the seats including installation. In the case of non-retractable (permanent) seating, limited eligibility shall be determined as follows:

- A = Square footage of area occupied by seating
- B = Total square footage of gymnasium
- C = Total cost of gymnasium construction excluding seats (bleachers)
- D = Total cost of seats (bleachers) including installation

$(A/B \times C) + D =$ Limited eligible cost of gymnasium seating area.

(b) **Seating Area in an Auditorium.** The limited eligibility of the cost of constructing the area of spectator seating in an auditorium shall be determined as follows:

- A = Square footage of area occupied by seating
- B = Total square footage of auditorium
- C = Total cost of auditorium construction excluding seating
- D = Total cost of seats (including installation)
- E = 1/2 of highest projected 8-year enrollment
(1/2 of capacity if construction or grant payments were started after June 30, 1975 and before July 31, 1983)
- F = Capacity of auditorium

$((A/B \times C) + D) \times E/F =$ Limited eligible cost of auditorium seating area

Whenever E divided by F equals or exceeds one, a factor of one shall be used. Multipurpose rooms which utilize folding chairs or other temporary seating for auditorium purposes shall not be subject to this section.

(Effective July 28, 1986)

Sec. 10-287c-19. Construction contracts subject to bid. (Reference: Section 10-287)

(a) **Contract Award.** The applicant shall file with the Commissioner in such manner as the Commissioner may prescribe a notification of the date the first construction contract was executed for the project.

(b) An applicant shall certify to the department, in such a manner as may be prescribed by the Commissioner, that they have met all legislative and regulatory requirements in the award of contracts.

(c) **Changes in Construction Plans.** The applicant shall notify the Commissioner promptly, and submit copies, of any final plan changes, addenda, and all change orders.

Sec. 10-287c-20

Repealed, October, 1995

Sec. 10-287c-21. Approval of plans and site. (Reference: Section 10-291)

(a) **Final Plans.** The applicant shall file with the department in such manner as the Commissioner may prescribe final plans including: (1) one copy of the final plans and specifications for the project, or a phase of the project, as prepared for bidding and which specify the choice of site for the project; (2) A professional cost estimate of such project or phase and of any site acquisition; and (3) certification that the documents described in subdivisions (1) and (2) of this subsection have been approved by the applicant and building committee.

(b) **Review of Plans.** The Commissioner shall review final plans and specifications to ensure that such plans and specifications comply with applicable statutes, regulations, and codes for school construction, and with the educational specifications for the project.

(c) **Grant Commitment and Authorization to Seek Bids.** No phase of site development or construction or purchase order in connection with a school building project for which state assistance is sought shall go out to bid until the applicant has received written notification from the Commissioner that: (1) the Commissioner has approved the final plans and specifications for such phase of the project for conformity with the requirements of (A) the State Fire Marshal (B) the State Department of Health Services, (C) the life-cycle cost analysis approved by the commissioner of public works, and (D) the standards adopted by the State Building Inspector for design and construction of public buildings to meet the needs of disabled persons; (2) the final plans and specifications for such phase of the project comply with the educational specifications for the project; and (3) the Commissioner has approved the site of the project.

(d) **Cause for Withholding of Grant Payments and Repayment of Grants.** All school building projects may be subject to inspection by the Commissioner. Such inspection may determine that a project has not met the conditions of the original application if: (1) the project does not satisfy fire, safety, health or other applicable codes; (2) the project deviates materially from the final plans and specifications as approved by the applicant and the Commissioner; (3) the project is found to have violated any other provision of Chapter 173 of the Connecticut General Statutes. The Commissioner shall notify the applicant in writing within 60 days of the results of an inspection. Such notice shall specify those violations which may result in withholding of payments and shall specify how the applicant shall respond in order to meet the conditions of the original application. Failure of the applicant to respond adequately shall be cause for the Commissioner to withhold payments for such projects or order the repayment of grant amounts already paid for such project.

Sec. 10-287c-22. Replacement for a Roof Less than 25 Years Old.
(Reference: Section 10-286(a) (7))

(a) In the case of a grant application for total or partial replacement of a roof which has existed for fewer than twenty years, eligibility shall be conditioned upon the factors enumerated in Section 10-286(a)(7). For the purposes of determining whether a town is prohibited from recovery of damages or has no other recourse at law or in equity, the following shall constitute satisfactory evidence of this requirement: (1) When suit or arbitration has been brought by a district for recovery of damages due to a faulty roof, and final judgment has been rendered against said district, whether or not on the merits; (2) Where the district or board attorney certifies to the Department that all applicable statutes of limitations have expired, and, in the best judgment of said counsel, it would be fruitless to institute litigation and/or arbitration.

(b) If suit has been brought against the architect, engineer, contractor or any other party on account of improper design and/or construction, a final judgment of a court of competent jurisdiction on said issue shall be binding on the department as to improper design or construction.
(Effective August 25, 1989)

Sec. 10-287c-23. Miscellaneous

Severability. If any provision of these regulations is found TO be invalid under a final judgment of a court of competent jurisdiction, all the remaining provisions of those regulations shall remain in full force and effect .

(Effective July 28, 1986)

R-39 Rev. 03/2012
(Statement of Purpose page)

Statement of Purpose

Pursuant to CGS Section 4-170(b)(3), "Each proposed regulation shall have a statement of its purpose following the final section of the regulation." Enter the statement here.

To amend the regulations pertaining to school construction to reflect the transfer of authority to the Department of Construction Services. Connecticut General Statutes Section 4b-1b established the Department of Construction Services (DCS) and designated the DCS the successor department to the Department of Education with respect to the issuance of school construction grants in accordance with Connecticut General Statutes Chapter 173. These regulations have been amended to reflect this transfer of authority to the DCS.