

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 207, 4401, 4402, 4403 and 4410.

Section 90.12 of the Regulations of the Commissioner of Education shall be (a) Definitions.

As used in this section and in Education Law, section 273-a:

(1) *Library* means public, free association and Indian libraries, as defined in section 253 of the Education Law, which are members of public library systems.

(2) *Library system* means a public library system, as defined in subdivision 1 of section 272 of the Education Law.

(3) *Library construction* means:

(i) the construction or acquisition of a building for library purposes, including construction of a building for library purposes pursuant to a lease-purchase agreement; or

(ii) the renovation or rehabilitation of a building already owned by a library; or

(iii) renovation or rehabilitation of a building to be leased for library purposes, including renovation or rehabilitation of a building for library purposes pursuant to a lease-purchase agreement.

(4) *Acquisition* means the purchase of a site and an existing building suitable for conversion to library purposes.

(5) *Renovation* means the overall improvement or conversion of an existing building, exclusive of routine maintenance, resulting in increased operational efficiency and economy.

(6) *Rehabilitation* means the restoration of an existing library building, exclusive of routine maintenance, with particular emphasis on energy conservation, accommodation for computer equipment, or access by physically handicapped persons.

(b) Application procedures.

(1) Each public library system shall submit to the commissioner, no later than a prescribed date, as part of a plan of service, a plan by which it will accept, review, and make recommendations on applications as required by Education Law, section 273-a(2).

(2) When the applicant is a library, the governing board of the system of which it is a member shall indicate to the commissioner its approval of such application by stating the extent to which the project for which State aid is requested will assist the applicant to provide more effective service within the system's standards of organization and service.

(3) When the applicant is a library system board, the application shall describe how the State-aided project will improve system services to member libraries and users.

(4) The library system board shall rank the applications from its system area in order of its recommendations, giving particular attention to the service needs of any communities which are isolated or economically disadvantaged, or located beyond the reasonable service capabilities of other libraries which are members of such library system.

(c) Content of applications.

Each application shall assure that:

(1) when the construction project is completed, adequate operating support and resources will be available to sustain an improved level of service as reflected by the schedule of library open hours, the number of professional and nonprofessional staff needed to provide such service, and the upgrading of the inventory of all types of library materials;

(2) the nonstate share of the cost of the project is or will be available;

(3) the project has been started or will begin within 180 days after approval by the commissioner and will be completed promptly and in accordance with the application;

(4) the approved project will be conducted in accordance with all applicable Federal, State and local laws and regulations;

(5) the project has not been completed prior to the date of application;

(6) where required by law, competitive bidding procedures will be followed; and

(7) the premises constructed, acquired, renovated, rehabilitated or leased will be usable for library purposes for at least 10 years from completion of the project.

(d) Criteria for approval of an application.

Approval of construction project applications will be based in part upon the degree to which each project will result in:

(1) more effective library service to the library's service area, as evidenced by new library programs and user accommodations resulting from the increased and improved building space and capacity;

(2) more efficient utilization of the library building, resulting in such economies as increased energy conservation and increased staff efficiency;

(3) improved access to and use of building services by all library users, including physically handicapped persons;

(4) the provision of library services in communities which are geographically isolated or economically disadvantaged; and

(5) the satisfaction of such other criteria as the commissioner may deem appropriate.

(e) Costs.

Pursuant to Education Law, section 273-a:

(1) Costs eligible for approval shall include:

(i) construction or acquisition of a library building;

(ii) renovation or rehabilitation of a library building;

(iii) renovation or rehabilitation of leased property;

(iv) purchase and installation of initial equipment and furnishings as a project component of subparagraph (i), (ii) or (iii) of this paragraph;

(v) site preparation and grading as a project component of subparagraph (i), (ii) or (iii) of this paragraph;

(vi) replacement of a library building's mechanicals, including, but not limited to, heating, ventilation, air conditioning, cooling, electrical, and plumbing systems;

(vii) replacement of permanent components of a library building, including, but not limited to, windows, doors, roofs, and lighting systems;

(viii) supervision of the construction, renovation or rehabilitation; and

(ix) such other costs as may be approved by the commissioner.

(2) Costs ineligible for approval shall include, but shall not be limited to:

(i) architectural and engineering plans;

(ii) building consultant studies;

- (iii) interest or carrying charges on bonds financing the project;
- (iv) purchase of books and other library materials;
- (v) landscaping; and
- (vi) routine maintenance.

(f) Schedule of payment of State aid for library construction.

(1) Fifty percent payment of awarded State aid for approved costs of the project will be made after notification of applicant by the commissioner of approval for funding.

(2) Forty percent of such aid shall be payable in the State fiscal year following the year in which funding was provided.

(3) The 10-percent final payment will be made after submission of satisfactory evidence that the project has been completed in accordance with the terms of the approved application.

(g) Reports.

The following reports shall be made to the commissioner on the forms and by the dates prescribed by the commissioner:

(1) Each recipient of State aid pursuant to Education Law, section 273-a, shall report on the status of the approved project, including a final cost report.

(2) Each library system board shall report on the anticipated State aid necessary for eligible projects to be completed in its service area.

(3) Upon request by the commissioner, each library system board shall submit an annual report detailing the status of each project for which an application was submitted by a member library and not recommended for approval, or was approved but for which no State aid was provided.