



TO: Cultural Education Committee

FROM: Lauren Moore *Lauren M*

SUBJECT: Proposed Amendment of Section 90.12 of the Regulations of the Commissioner of Education Relating to State Aid for Library Construction

DATE: November 27, 2024

AUTHORIZATION(S): *Don M. J. Bellotti*

SUMMARY

Issue for Discussion

Should the Board of Regents amend section 90.12 of the Regulations of the Commissioner of Education relating to state aid for library construction?

Reason(s) for Consideration

Required by State statute (Chapter 241 of the Laws of 2024).

Proposed Handling

The proposed amendment is submitted to the Cultural Education Committee for discussion at its December 2024 meeting. A copy of the proposed amendment (Attachment A) is attached.

Procedural History

A Notice of Proposed Rule Making will be published in the State Register on December 24, 2024, for a 60-day public comment period. Supporting materials are available upon request from the Secretary to the Board of Regents.

Background Information

Education Law §273-a (State Aid for Library Construction) was recently amended by Chapter 241 of the Laws of 2024 ("Chapter 241") in three significant respects:

- Elimination of the cap on public library system allocations – currently no more than fifty percent (50%) of the system’s total allocation may be used to support the total cost for projects that would receive increased State aid beyond seventy-five percent (75%) of the total project approved cost.
- The distinction between “economically disadvantaged” and “economically distressed” has been eliminated, negating the cap on funding between seventy-five percent (75%) and ninety percent (90%) of total project costs.
- Repeals Chapter 389 of the Laws of 2019 relating to coordinated project application and re-adds such language with amendments to authorize coordinated projects to receive increased State aid (a maximum of ninety percent (90%) of total project costs) where one or more library buildings within the coordinated project serve a disadvantaged community.

Therefore, the Department now proposes to amend section 90.12 of the Commissioner’s regulations to implement and conform the Commissioner’s regulations to Chapter 241. Specifically, the proposed amendment:

- Amends the definition of “economically disadvantaged” to provide that such projects which include a library building which meets such definition are eligible for aid up to 90% of the total project costs (rather than 75%).
- Removes the definition of “economically distressed.”
- Amends the definition of the “coordinated application” to provide that coordinated projects are eligible for State aid of up to 90% of the total project cost where one or more library buildings serve an economically disadvantaged community.
- Defines the term “single building project” as a project of an individual physical location of a public or association library (it does not include public library system buildings).
- Removes language referencing the fifty percent (50%) cap on public library system allocations referenced above.
- Removes language which limits State funding for library buildings included in coordinated applications to fifty percent (50%) of total coordinated project costs for such buildings.

Related Regents Items

[March 2023: Proposed Repeal of Section 90.4, Addition of a New Section 90.4, and Amendment of Section 90.12 of the Regulations of the Commissioner of Education Relating to Central Library Services Aid and State Aid for Library Construction](https://www.regents.nysed.gov/sites/regents/files/323brca2.pdf)
(<https://www.regents.nysed.gov/sites/regents/files/323brca2.pdf>)

Recommendation

Not applicable.

Timetable for Implementation

It is anticipated that the proposed amendment will be presented for permanent adoption at the April 2025 Regents meeting, after publication of the proposed amendment in the State Register and expiration of the 60-day public comment period required under the State Administrative Procedure Act. If adopted at the April 2025 meeting, the proposed amendment will become effective on April 23, 2025.

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law §§ 207 and 273-a, as amended by Chapter 241 of the Laws of 2024.

1. Section 90.12 of the Regulations of the Commissioner of Education is amended to read as follows:

Section 90.12

(a) Definitions.

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

(1)

(2)

(3)

(4) ...

(5) ...

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

(7)

(8) *Broadband library services* means providing a high speed internet connection for library users, including but not limited to internal and external connections, at a minimum speed prescribed by the commissioner using such means as wireless, fiber, cable, white space and similar products.

(9) *Economically disadvantaged* means that the library building that will be the subject of a project application is located in a community that meets a set of criteria as determined by the library system in accordance with Education Law § 273-a (2)(e) and

that the project is therefore eligible for aid of up to [seventy-five percent (75%)] ninety percent (90%) of the total project costs.

[(10) *Economically distressed* means that the average poverty rate for the library service area meets or exceeds the New York State average poverty rate in accordance with the provisions of Education Law § 273-a (2)(f) and where the library also demonstrates the need for State aid of up to and including ninety percent (90%) of the total project costs.

(11)] (10) Coordinated application means an application submitted by a public library system on behalf of two or more libraries for one specific type of project, such as broadband, infrastructure, generators or energy efficient lighting. [The State aid allocation for such coordinated projects shall not exceed fifty percent (50%) of the total project costs] Coordinated projects where no library building locations serve an economically disadvantaged community shall be eligible for State aid of up to fifty percent (50%) of the total project costs. Coordinated projects where one or more library buildings serve a disadvantaged community shall be eligible for State aid of up to ninety percent (90%) of the total project costs.

(11) Single building project means a project for an individual physical location of a public or association library and excludes public library system buildings.

(b) Application procedures.

(1)

(2)

(3) ...

(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 geographically isolated, economically disadvantaged,

[economically distressed] or located beyond the reasonable service capabilities of other libraries which are members of such library system.

(5) ...

(6) The library system board shall determine the amount of State aid that will be allocated for each single building project application. [The library system may allocate up to and including fifty percent (50%) of the library system's total State aid appropriation under Education Law § 273-a for single building projects serving economically distressed communities as defined in paragraph (10) of subdivision (a) of this section. In accordance with the provisions of Education Law § 273-a(4), State aid funding for all economically distressed projects must be allocated entirely from the fifty percent (50%) portion of the library system's total appropriation.]

(7) Coordinated applications must be submitted by the library system in accordance with the provision of Education Law § 273-a (3). The public library system shall be responsible for managing all coordinated projects. Each coordinated project application shall be approved by the board of trustees of each participating library as well as the board of trustees of the library system. [Each library building included in a coordinated application is eligible for State funding up to and including fifty percent (50%) of total coordinated project costs for that building.] No one building may be the subject of more than one coordinated project application per year.

(c)

(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) ...

(2) ...

(3) ...

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

(5)

(e)

(f)

(g)