



# VIRGINIA BOARD OF EDUCATION

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# AGENDA ITEM

**Agenda Item:** J

**Date:** November 17, 2022

**Title:** Final Review of *Guidelines for Implementing the School Construction Assistance Program in the 2022-2024 Biennium*

**Presenters:** Kent C. Dickey, Deputy Superintendent of Budget, Finance, and Operations  
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**Purpose of Presentation:**

Action required by state or federal law or regulation.

**Executive Summary:**

The School Construction Assistance Program was created at the 2022 Special Session I of the General Assembly through the 2022 Appropriation Act (i.e., Chapter 2, [Item 137](#), Paragraph C.43; “[Item 137](#)”). That appropriation act item provides fiscal year 2023 appropriations for the program of \$400,000,000 from the general fund and \$50,000,000 from the Literary Fund to be transferred into the School Construction Fund (Fund). The Virginia Board of Education (Board) will award grants on a competitive basis from the Fund to local school boards that demonstrate poor building conditions, commitment, and need in order for such local school boards to be able to fund the construction, expansion, or modernization of public school buildings.

The legislative intent of this program is to provide funding for major school construction, renovation, or additions projects, giving priority to high-need school divisions and localities. The intent is for planned projects or those being planned that lack sufficient funding and that are not yet in the construction phase to receive funding.

The Board is required to develop guidelines for the administration of the program to include certain minimum requirements, which include establishing the competitive scoring criteria and their associated point values used in evaluating school division applications for funding. The competitive criteria must reflect the categories of Commitment, Need, and Poor School Building

Conditions, and a minimum qualifying criteria score established for a project to qualify for funding. The guidelines propose various criteria covering these three categories and their assigned point values. A minimum of 65 criteria points on a 100 point scale is proposed in the guidelines as the minimum qualifying score for a project to qualify for a grant award.

School divisions will apply to the Virginia Department of Education (VDOE) for grant funding during a designated open application period. Awarded funding will be based on 10 to 30 percent of approved project costs, depending on the division composite index and the locality fiscal stress designation. Any unobligated appropriation balance for this program on June 30, 2023, must be reappropriated for expenditure in fiscal year 2024 for the same purpose.

This item aligns with Priority 1 of the Board's Comprehensive Plan: 2018-2023 to provide high-quality, effective learning environments for all students.

Several changes are proposed to the Guidelines since first review. Those proposed changes include:

1. Expanding the applicability of Criterion 2, regarding the need for access improvements under the Americans with Disabilities Act (ADA) to include buildings being replaced by new construction, and not just for building renovation projects. This change allows this criterion to apply to both new construction and renovation projects.
2. Expanding the applicability of Criterion 3, regarding major building deficiencies to include buildings being replaced by new construction, and not just for building renovation projects. This change allows this criterion to apply to both new construction and renovation projects.
3. Revising Criterion 8, regarding the locality Fiscal Stress designation by eliminating the numeric score ranges from the criterion, and only using the qualitative designations of "High", "Above Average", "Below Average", and "Low." The numeric fiscal stress scores tied to the qualitative designations are not static and can vary across years due to updates to the source data used in the fiscal stress index calculations.
4. Revising Criterion 10, regarding the condition of other school buildings in the school division by specifying that it's based on the majority of buildings in the division being in Poor, Fair, or Good condition.

**Action Requested:**

Final review: Action requested at this meeting.

**Superintendent’s Recommendation**

The Superintendent of Public Instruction recommends that the Board of Education approve the *Guidelines for Implementing the School Construction Assistance Program in the 2022-2024 Biennium*.

**Previous Review or Action:**

**Date:** October 20, 2022

**Action:** First Review

**Background Information and Statutory Authority:**

[Item 137](#) states the following:

*43. School Construction Assistance Program.*

*a. Out of this appropriation, \$400,000,000 the first year from the general fund and \$50,000,000 the first year from the Literary Fund shall be transferred into the School Construction Fund for the Board of Education to award grants on a competitive basis from the Fund to local school boards that demonstrate poor building conditions, commitment, and need in order for such local school boards to fund the construction, expansion, or modernization of public school buildings. Any unobligated balance for this program on June 30, 2023, shall be reappropriated for expenditure in the second year for the same purpose.*

*b. The Board of Education shall develop guidelines for the administration of this program, which shall provide at a minimum that:*

*1. Grants shall be provided only for projects that conform to the Department of Education's "Guidelines for School Facilities in Virginia's Public Schools," as amended.*

*2. Grant awards shall be based on project costs, including planning, design, site acquisition and construction, the school division's local composite index, and the fiscal stress category as designated by the Virginia Commission on Local Government in its most recent "Report on Comparative Revenue Capacity, Revenue Effort, and Fiscal Stress of Virginia's Counties and Cities" for the locality that contains the school division, as follows:*

<i>School Division</i>	<i>Grant Award Amount</i>
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<i>School divisions with a local composite index value below .3000, or contained in a locality designated with high fiscal stress</i>	<i>30 percent of project costs</i>
<i>School divisions with a local composite index value at or above .3000 and below .4000, or contained in a locality designated with above average fiscal stress</i>	<i>20 percent of project costs</i>
<i>All other school divisions</i>	<i>10 percent of project costs</i>

*3. A minimum qualifying score shall be met for a project to qualify for a grant award based on Board-developed scoring criteria. The Board shall set such minimum score at a level to ensure funds are reserved for critical school construction projects. Such scoring criteria shall provide appropriate weight to the following categories for the award of grants:*

*a.) Commitment, which may be demonstrated by factors such as: (i) an agreement by the local governing body to maintain or increase the percentage of local revenues dedicated to public education throughout the duration of the financing proposed for the project and (ii) the extent of project design and site acquisition for such project that has been completed prior to application of anticipated grant funds.*

*b.) Need, which may consider factors such as: (i) the percentage of students in the local school division eligible to receive free price meals; (ii) the percentage of residents of the locality in which the local school division is located with incomes at or below the federal poverty guidelines established by the U.S. Department of Health and Human Services; (iii) the local composite index of local ability-to-pay for the local school division; (iv) debt capacity of the locality in which the school division is located; and (v) the most recent fiscal stress score of the locality that includes the local school division as designated by the Virginia Commission on Local Government.*

*c.) Poor school building conditions, which may consider factors such as: (i) the condition of the facilities proposed to be replaced or upgraded using these funds, including the current level of compliance of the existing facility with the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.) and the facilities potential threat to the health or safety of building occupants; (ii) the school division maintenance reserve tool established pursuant to Chapter 650 of the 2022 General Assembly; and (iii) the overall condition of other facilities within the school division.*

*4. If qualifying grant award requests exceed the amount of funds available, grants shall be awarded based on ranked project scores, and shall not be prorated.*

*5. The release of funds to grant awardees shall be reasonably aligned with the timing of incurred expenses.*

*6. A specific project shall only receive one grant award. The total project cost eligible to receive a grant shall be up to \$100,000,000. Grant awards shall not be amended for any additional reasonable project costs after the Board awards a grant to a division.*

*c. For the purpose of this program, "project costs" shall include reasonable project construction costs as defined by the Board, including planning, design, site acquisition and construction, and not to include financing costs, outdoor facilities predominantly used for extracurricular athletic activities, loose equipment, and furniture.*

*d. The Board of Education shall submit an executive summary of the program, including details on projects funded each year and any necessary legislative or budget recommendations to improve the program, no later than December 1 of each year to the Chairs of the House Education Committee, Senate Education and Health Committee, House Appropriations Committee, and Senate Finance and Appropriations Committee.*

[Item 137](#) provides fiscal year 2023 appropriations for the program of \$400,000,000 from the general fund and \$50,000,000 from the Literary Fund to be transferred into the School Construction Fund for the the Board to award grants on a competitive basis to local school boards that demonstrate poor building conditions, commitment, and need in order for such local school boards to be able to fund the construction, expansion, or modernization of public school buildings. Any unobligated appropriation balance for this program on June 30, 2023, must be reappropriated for expenditure in fiscal year 2024 for the same purpose.

The Board will award grants under the program for qualifying school projects submitted by school divisions based on various competitive criteria and their assigned point values. The Board is required to develop guidelines for the administration of the program that meets minimum requirements, including:

- Awarding grants for projects that meet the Department's current school facilities guidelines;
- Awarding grants for 10, 20, or 30 percent of approved project costs (project costs capped at \$100,000,000), depending on the school division's local composite index and the locality's fiscal stress designation;
- Awarding only one grant per submitted project;
- Awarding grants for projects that meet a minimum qualifying score based on Board-developed scoring criteria that incorporate criteria reflecting Commitment, Need, and Poor School Building Conditions. A minimum qualifying criteria score of 65 on a 100 point scale is proposed in the guidelines for a project to qualify for funding;
- If qualifying grant award requests exceed available funding, grants are awarded based on ranked project scores on the criteria.

Consistent with the appropriation act, the guidelines define "project costs" as including reasonable project construction costs, including planning, design (architectural and engineering), site acquisition, construction phase costs involving the core building structure and related site work, but not including financing costs (such as closing costs, legal counsel and financial advisor

costs, and annual debt service payments for principal and interest), outdoor facilities predominantly used for extracurricular athletic activities, loose equipment, and furniture. Allowable projects may include new building construction, additions to expand existing buildings, or renovations to modernize existing buildings.

School divisions will apply for project funding online during an open application period. School divisions applying for a grant must indicate the estimated cost of the proposed construction or renovation project, and certify their intent to obligate grant funds for construction within six months of the grant award notification by the Department. Divisions must provide information on the planned preventive maintenance for the project once it is placed in service and must submit their latest capital improvement plan (CIP) as part of the grant application. Divisions applying must also be in compliance with other state laws, regulations, policies, or guidelines.

Following Department staff review of the applications, projects recommended for funding will be brought to the Board for action.

These guidelines will remain in effect initially for the 2022-2024 biennium, and then for future biennium if the program is continued and funded in future biennial appropriation acts or through funding remaining in the non-reverting School Construction Fund. The appropriation act includes a reporting requirement for the Board to report on the status of the program and recommendations to improve it to the General Assembly by December 1 each year.

**Timetable for Further Review/Action:**

Upon Board approval, these guidelines will be submitted to the Town Hall website for a 30-day public comment period, pursuant to the requirements of the Administrative Process Act.

**Impact on Fiscal and Human Resources:**

It is projected that completion and implementation of the guidelines can be absorbed by existing Department of Education fiscal and staff resources. It is projected that implementation of the guidelines by school divisions can also be absorbed with existing fiscal and staff resources.