



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE RULE AUTHORIZED
BY THE WEST VIRGINIA LEGISLATURE**

AGENCY: School Building Authority Of WV TITLE-SERIES: 164-03
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: School Planning and Design Criteria
CITE STATUTORY AUTHORITY: 18-9D-20

The above rule has been authorized by the West Virginia Legislature.

Authorization is cited in (house or senate bill number) Senate Bill 672

Section 18-9D-21(c) Passed On 3/7/2019 12:00:00 AM

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

April 30, 2019

This rule shall terminate and have no further force or effect from the following date:

April 30, 2029

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Benjamin Ashley -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 164
LEGISLATIVE RULE
SCHOOL BUILDING AUTHORITY OF WEST VIRGINIA

SERIES 3
SCHOOL BUILDING AUTHORITY
SCHOOL PLANNING AND DESIGN CRITERIA

§164-3-1. General.

1.1. Scope. -- This legislative rule establishes the guidelines and procedures related to requirements for School Building Authority school planning and design criteria.

1.2. Authority. -- W. Va. Code §18-9D-20.

1.3. Filing Date. -- April 30, 2019

1.4. Effective Date. -- April 30, 2019

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect upon the expiration of April 30, 2029.

§164-3-2. School Building Authority School Planning and Design Criteria.

2.1. Building Gross Areas.

2.1.A. Allowable gross square foot building areas shall be reflective of the student population and the educational program. The building SBA utilization will be an important factor in determining funding priorities.

2.1.B. In order to encourage efficiency yet continue to provide funding for small rural community schools that may be geographically isolated from other schools, those schools funded with enrollments below the SBA enrollment ranges shall be planned on an individual school basis. The actual square footage shall be dictated by prior agreed upon design enrollments and space required to house the number of students and curricular offerings.

2.1.C. With exception of the small school design procedure, or as otherwise justified to the SBA by the local education agency, all other schools maximum gross building area allowances shall be computed as the product of the design enrollment times the SBA approved square foot allowance per pupil. The SBA will annually publish on or before the June Quarterly meeting the maximum allowable square footages for elementary, middle/junior and high schools based on the latest requirements of State Board Policy 6200.

§164-3-3. Allowable Construction Costs for New Construction.

3.1. SBA funded allocations for the construction of each facility will be limited through use of the maximum gross area allowance times (X) the most current SBA approved square foot cost for elementary, junior/middle and senior high schools.

3.2. Construction cost per square foot may be adjusted by the SBA to reflect regional cost factors. Statewide construction costs will be reviewed annually and may be adjusted for inflation based on actual and projected costs of projects constructed. This information will be reviewed, and the construction cost

allowances published by July each year.

3.3. The construction costs allowance shall include site work, building construction cost, building furnishings and equipment, architectural and engineering fees, construction manager or clerk-of-the-works, survey work, geotechnical studies, radon testing, utility connections from the building to the property line and advertisements.

3.4. In compliance with W. Va. Code §18-9D-19(c), auxiliary gyms are to be included as allowable construction costs in high schools that meet the minimum SBA efficiency enrollments of 800 students in grades 9-12.

3.4.A. Auxiliary gym spaces shall be a maximum total of 6,000 square feet and 144,000 cubic feet.

3.4.B. Spectator seating within the allowable 6,000 square feet may be up to 1,000 square feet.

3.4.C. Approved costs for auxiliary gyms do not include spaces for additional locker, restroom, dressing room or office spaces.

3.4.D. SBA funds for auxiliary gyms may not be used in conjunction with local funds to increase the size and/or spectator capacity of an auxiliary gym to create a second spectator gym.

3.5. In compliance with W. Va. Code §18-9D-19(b), comprehensive vocational facilities may be constructed in new high schools or existing high schools that meet the minimum SBA efficiency enrollments. The following criteria will be considered to determine the feasibility of construction of these spaces:

3.5.A. The distance of existing vocational facilities from the new or existing high school location.

3.5.B. The current demand of secondary students for vocational programs and/or the condition of the existing facilities must justify the need for additional/replacement spaces or the renovation of existing spaces.

3.5.C. The construction of a vocational component at a new comprehensive high school or at an existing high school must not create an adverse effect on other county vocational students or vocational students from other counties. The SBA does not deem the construction of any additional vocational spaces feasible:

3.5.C.1. If it could result in the reduction of available vocational programs at the existing school.

3.5.C.2. If it results in the inefficient use of existing or new vocational space.

3.5.C.3. If it adversely reduces existing vocational center operational budgets.

3.5.C.4. If it could result in the closure of any existing county or multi-county vocational center currently serving the student population of two or more feeder schools.

3.6. SBA Grant Funds may not be used forth following

3.6.A. Cost of issuance for local bonds or other indebtedness.

3.6.B. Site acquisition, unusual utility extensions, unusual site preparation cost, access highways, construction of athletic facilities.

3.6.B.1. Grant recipients are required to coordinate site selection for construction of new schools with the SBA prior to negotiations with seller or provider.

3.6.B.2. If it is determined by the SBA that extensive utility costs, special footings or foundations or other site preparation costs will consume a disproportionate amount of the building construction cost, an alternate site must be used. However, the Authority may consider approval of the proposed site if the grant recipient elects to provide additional local funding to pay the cost of developing the proposed site. At the conclusion of the site selection process, the SBA will provide a site acceptance letter to the local board that will allow the site acquisition process to begin.

3.6.C. Construction or renovation of athletic facilities, computer equipment, instructional supplies and equipment.

3.6.D. Reimbursement of salaries for county employees. (County employees should not be utilized to work on SBA funded construction projects).

3.6.E. Legal fees associated with any court proceeding or property acquisition cost.

3.6.F. Costs associated with defense or award of an arbitration action.

3.7. Contingency allowance for each new construction project shall be established as two percent (2%) of the construction budget.

§164-3-4. Renovations.

4.1. For renovation projects, an analysis of the replacement cost versus the renovation cost will be an important factor in determining funding priority. The renovation must not exceed the product of the approved gross square footage of the project multiplied by the SBA's square footage cost allowance.

4.2. For a renovation project that requires an addition, the cost of the additional square footage shall not be included in the replacement cost versus renovation cost comparison.

4.3. Contingency allowance for each renovation project shall be established as six percent (6%) of the renovation budget.