



**TO:** Audits/Budget and Finance Committee

**FROM:** Elizabeth R. Berlin

**SUBJECT:** Amendment of Sections 90.12 and 90.18 of the Regulations of the Commissioner of Education to Implement Education Law §273-a, as amended by Chapter 498 of the Laws of 2011, Chapter 148 of the Laws of 2014, and Chapter 480 of the Laws of 2015 Relating to State Aid for Library Construction and to Update and Clarify Certain Terminology Relating to the Functions of School Library Systems

**DATE:** March 2, 2017

**AUTHORIZATION(s):**

### SUMMARY

#### Issue for Discussion

Should the Board of Regents amend sections 90.12 and 90.18 of the Commissioner's Regulations to implement the Education Law §273-a, as amended by Chapter 498 of the Laws of 2011, Chapter 148 of the Laws of 2014, and Chapter 480 of the Laws of 2015 relating to State aid for library construction and update and clarify certain terminology relating to the functions of school library systems?

#### Proposed Handling

The proposed amendment is being presented to the Audits/Budget and Finance Committee for discussion at the March 2017 Regents meeting (Attachment A is a copy of the proposed amendment).

#### Procedural History

A Notice of Proposed Rule Making will be published in the State Register on April 12, 2017. Supporting materials are available upon request from the Secretary to the Board of Regents.

## **Background Information**

The proposed amendments to section 90.12 of the Commissioner's regulations are necessary to implement Education Law §273-a, as amended by Chapter 498 of the Laws of 2011, Chapter 148 of the Laws of 2014, and Chapter 480 of the Laws of 2015. These amendments include the following major changes:

- a definition of broadband library services was added;
- requires each public library system to submit, upon request by the Commissioner, the eligibility criteria for applications designated as projects serving economically disadvantaged communities pursuant to Education Law §273-a(2)(e), for each recommended application;
- clarifies certain costs that are eligible for approval, including but not limited to the:
  - acquisition of vacant land to be used for library purposes;
  - purchase, installation and replacement of a library building's broadband services infrastructure, including but not limited to internal and external connections, either as a stand-alone project or as a project component;
  - purchase and installation of permanent signage (with or without lighting, internal or external), which is used for library purposes;
  - purchase and installation of one or more generators for library purposes;
  - purchase and installation of assistive listening devices and systems for the deaf and hearing impaired, which shall include but not be limited to, hearing loops, FM systems and infrared systems;
  - project management of the construction, renovation, rehabilitation or broadband library services infrastructure project; and
  - architectural and engineering plans for locally approved new or ongoing projects.
- clarifies certain costs that are ineligible for approval, including but not limited to:
  - speculative architectural and engineering plans and feasibility studies; and
  - ongoing service fees for telecommunications and broadband services.
- eliminates the requirement that a library system board must submit an annual report to the Commissioner detailing the status of each project and instead, only requires the submission of a report upon request by the Commissioner. The proposed amendment also provides the Commissioner with flexibility to require the library system board to submit

any other report the Commissioner deems necessary to carry out the purpose of the program.

The proposed amendment also amends section 90.18 of the Commissioner's regulations to update and clarify certain terminology relating to school library systems in BOCES and the Big Five city school districts. Specifically, the proposed rule amends the definition of a "coordinator of a school library system" to clarify that such a coordinator must possess either a valid certificate as a school administrator and supervisor (S.A.S.), a school building leader (S.B.L.) or a school district leader (S.D.L.) in accordance with Part 80 of the Commissioner's regulations, or an equivalent certificate title as determined by the Commissioner.

**Related Regents Item(s)**

Not applicable.

**Recommendation**

Not applicable.

**Timetable for Implementation**

Following the 45-day public comment period, it is anticipated that the proposed amendment will come before the Board for permanent adoption at the July Regents meeting. If adopted at the July 2017 meeting, the proposed amendment will become effective on August 2, 2017.

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 207, 215, 254, 257, 271, 272, 273, 273-a, 282, 283, and 284.

1. Section 90.12 of the Regulations of the Commissioner of Education shall be amended, to read as follows:

§90.12 State Aid for Library Construction.

(a) Definitions. As used in this section and in Education Law, section 273-a:

(1) . . .

(2) . . .

(3) . . .

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

(5) . . .

(6) . . .

(7) *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.*

(b) Application procedures.

(1) . . .

(2) . . .

(3) . . .

(4) . . .

(5) The library system board, upon request by the Commissioner, shall provide the eligibility criteria for applications designated as projects serving economically disadvantaged communities pursuant to Education Law §273-a(2)(e), for each recommended application.

(c) . . .

(d) . . .

(e) Costs. Pursuant to Education Law, section 273-a:

(1) Costs eligible for approval shall include:

(i) construction or acquisition [or] of a library building;

(ii) . . .

(iii) renovation or rehabilitation of leased property to be used for library purposes;

(iv) acquisition of vacant land to be used for library purposes;

(v) purchase and installation of initial equipment and furnishing as a project component of subparagraphs (i), (ii) or (iii) of this paragraph;

(vi) purchase, installation and replacement of a library building's broadband services infrastructure, including but not limited to internal and external connections, either as a stand-alone project or as a project component of subparagraphs (i), (ii) or (iii) of this paragraph;

(vii) site preparation and grading as a project component of subparagraphs (i), (ii) [or], (iii) or (iv) of this paragraph;

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

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

(x) purchase and installation of permanent signage (with or without lighting, internal or external), which is used for library purposes;

(xi) purchase and installation of one or more generators for library purposes;

(xii) purchase and installation of assistive listening devices and systems for the deaf and hearing impaired, which shall include but not be limited to, hearing loops, FM systems and infrared systems; and

(xiii) [supervision] project management of the construction, renovation, rehabilitation or broadband library services infrastructure project;

(xiv) architectural and engineering plans for locally approved new or ongoing projects; and

(xv) such other costs as may be approved by the [commissioner] Commissioner.

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

(i) speculative architectural and engineering plans and feasibility studies;

(ii) . . .

(iii) . . .

(iv) . . .

(v) ongoing service fees for telecommunications and broadband services;

(vi) landscaping; and

(vii) routine maintenance.

(f) . . .

(g) Reports. The following reports shall be made to the commissioner on the forms and by the dates prescribed by the commissioner:

(1) . . .

(2) [Each] Upon request by the Commissioner, a 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] Commissioner, [each] a library system board shall submit [an annual] a 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.

(4) Any other reports the Commissioner shall deem necessary to carry out the purpose of this program.

2. Paragraph (7) of subdivision (a) of section 90.18 of the Regulations of the Commissioner of Education shall be amended, to read as follows:

(7) *Coordinator of a school library system* means a certified school library media specialist with a minimum of three years employment as a school library media specialist and possessing a valid school administrator and supervisor (S.A.S.) certificate [or], a valid school building leader (S.B.L.) certificate or a valid school district leader (S.D.L.) certificate in accordance with Part 80 of this Title, or an equivalent certificate title as determined by the Commissioner.