

AGENCY RECEIPT
NOTICE OF PROPOSED RULEMAKING

1. **Agency Name:** Arizona School Facilities Board
2. **The Subchapters, if applicable, the Articles, the Parts, if applicable and the Sections involved in the rulemaking, listed in numerical order:**

<u>Articles, Part, or Section Affected</u>	<u>Rulemaking Action:</u>
R7-6-205	Amend
R7-6-210	Amend
R7-6-211	Amend
R7-6-213	Amend
R7-6-215	Amend
R7-6-216	Amend
R7-6-220	Amend
R7-6-221	Amend
R7-6-227	Amend
R7-6-230	Amend
R7-6-235	Amend
R7-6-247	Amend
R7-6-247	Amend
R7-6-251	Repeal
R7-6-258	Amend
R7-6-260	Repeal
R7-6-261	Repeal
R7-6-270	Amend
R7-6-271	Amend
R7-6-275	Amend
R7-6-301	Amend
R7-6-501	Amend
R7-6-502	Amend
R7-6-601	Repeal

**AGENCY CERTIFICATE
NOTICE OF PROPOSED RULEMAKING**

1. **Agency Name:** Arizona School Facilities Board
2. **Chapter Heading:** School Facilities Board
3. **Code Citation for the Chapter:** 7 A.A.C. 6
4. **The Subchapters, if applicable, the Articles, the Parts, if applicable and the Sections involved in the rulemaking, listed in numerical order:**

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R7-6-205	Amend
R7-6-210	Amend
R7-6-211	Amend
R7-6-213	Amend
R7-6-215	Amend
R7-6-216	Amend
R7-6-220	Amend
R7-6-221	Amend
R7-6-227	Amend
R7-6-230	Amend
R7-6-235	Amend
R7-6-247	Amend
R7-6-247	Amend
R7-6-251	Repeal
R7-6-258	Amend
R7-6-260	Repeal
R7-6-261	Repeal
R7-6-270	Amend
R7-6-271	Amend
R7-6-275	Amend
R7-6-301	Amend
R7-6-501	Amend
R7-6-502	Amend
R7-6-601	Repeal

NOTICE OF PROPOSED REGULAR RULEMAKING

TITLE 7. EDUCATION

CHAPTER 6. SCHOOL FACILITIES BOARD

PREAMBLE

<u>1. Articles, Parts, and Sections Affected</u>	<u>Rulemaking Action</u>
R7-6-205	Amend
R7-6-210	Amend
R7-6-211	Amend
R7-6-213	Amend
R7-6-215	Amend
R7-6-216	Amend
R7-6-220	Amend
R7-6-221	Amend
R7-6-227	Amend
R7-6-230	Amend
R7-6-235	Amend
R7-6-247	Amend
R7-6-247	Amend
R7-6-251	Repeal
R7-6-258	Amend
R7-6-260	Repeal
R7-6-261	Repeal
R7-6-270	Amend
R7-6-271	Amend
R7-6-275	Amend
R7-6-301	Amend
R7-6-501	Amend
R7-6-502	Amend
R7-6-601	Repeal

2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. §§ 15-2002(A)(11) and 15-2011(F)

Implementing statute: A.R.S. §§ A.R.S. § 15-2002(A)(11) and 15-2011(F)

3. Citations to all related notices published in the *Register* as specified in R1-1-409(A) that pertain to the record of the proposed rule:

Notice of Rulemaking Docket Opening: 25 A.A.R. 1740, September 15, 2021

4. The agency's contact person who can answer questions about the rulemaking:

Name: Jack Smith

Address: 100 N 15th Avenue; Suite 301

Phoenix, AZ 85007

Telephone: 928-499-7713

E-mail: jack.smith@azdoa.gov

Web site: <https://sfb.az.gov>

5. An agency's explanation why the proposed rule should be made, amended, repealed, or renumbered under A.R.S. § 41-1027(A):

The rules of the School Facilities Board were made in 2001 and amended in 2020 through an expedited ruling making. During the intervening years, the rules have become inconsistent with current industry standards and Board practice, technological changes, and best practices regarding education. The rules are being updated to further address these issues and continue to resolve recommendations identified in a five-year-review report approved by the Council on February 2, 2016.

An exemption from Executive Order 2021-02 was provided for this rulemaking by Kaitlin Harrier, Director of the Governor's Office of Education, on June 30, 2021.

6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The Board does not intend to review or rely on a study in its evaluation of or justification for any rule in this rulemaking.

7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

These rules would not impact or add any burden upon the economy, small businesses or consumers. It has a positive economic impact by expanding the capital projects or resources for those Arizona school districts that would be contracting with private vendors to supply the required services or products. There is no fee or additional regulatory burden applied to any consumer or business through these rules.

9. The agency's contact person who can answer questions about the economic, small business, and consumer impact of the proposed rule:

Name: Jack Smith
Address: 100 N 15th Avenue; Suite 301
Phoenix, AZ 85007
Telephone: 928-499-7713
E-mail: jack.smith@azdoa.gov
Web site: <https://sfb.az.gov>

10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, and how persons may provide written comment to the agency on the proposed regular rule under A.R.S. § 41-1027(E):

Written comments on the proposed expedited rulemaking should be directed to the person listed in item 4. Written comments must be received at or before the oral proceeding, which will be held as follows:

Date: Friday, November 8, 2021

Time: 10:00 A.M.

Location: In accordance with Department policy, the oral proceeding will be held digitally and telephonically. To participate in the oral proceeding, either enter the following link into an internet browser: meet.google.com/eaajhhjecz or call (US) +1 225-503-0229 and when requested, enter the following PIN: 849 300 815#

11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

None

- a. Whether the rule requires a permit, license, or agency authorization under A.R.S. § 41-1037(A) and whether a general permit is used and if not, the reasons why a general permit is not used:**

The Board does not issue permits.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Civil rights laws prohibiting discrimination based on disability are federal laws applicable to school facilities. The rules are not more stringent than federal law.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No analysis was submitted.

12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:

None

13. The full text of the rules follows:

TITLE 7. EDUCATION
CHAPTER 6. SCHOOL FACILITIES BOARD

Article 2. Minimum School Facility Adequacy Guidelines

R7-6-205. School Site

A. A school site shall have safe access, parking, drainage, and security to accommodate a school facility that complies with:

1. The minimum gross square footage requirements established in A.R.S. § 15-2011, for the number of students at the school facility; and
2. This Chapter.

B. A school site provides safe access by having:

1. A student drop-off area; and
2. A pedestrian pathway that allows students to enter the school facility through a designated point of entry without crossing vehicular traffic or by crossing vehicular traffic at a designated crosswalk.

C. A school site provides adequate parking by having an all weather surface area large enough to accommodate one parking space per staff FTE and one visitor parking space per 100 students. A school site that is unable to provide adequate parking capacity may have the sufficiency of parking at the school site determined by the Board using the following criteria:

1. Availability of street parking around the school;
2. Availability of any nearby parking lots;
3. Availability of public transit;
4. Number of staff who drive to work on a daily basis; and
5. The average number of visitors on a daily basis.

D. A school site provides adequate drainage if the school site is prepared in a manner consistent with the drainage and floodplain management standards of the jurisdiction in which the school site is located.

E. A school site provides adequate security if there is a fenced or walled, outdoor, play or physical education area for preschool students with disabilities and students in kindergarten through grade six. A school site that is unable to provide adequate security may have the sufficiency of security at the school site determined by the Board using the following criteria:

1. Amount of vehicular traffic near the school site;
2. Existence of hazardous or natural barriers on or near the school site;
3. The amount of animal nuisance near the school site; and
4. Visibility of the outdoor, play or physical education area.

F. All school districts must have an emergency response plan on file in accordance with ARS 15-341 (A) (31).

R-7-6-210 (E) - exterior classroom space issue

~~E. An exterior space may be included in the classroom square footage of a school facility if the exterior space is covered and meets all other standards in this Chapter.~~

R7-6-211. Classroom Fixtures and Equipment (2)

1. Contain a work surface and seat for each student, teacher, and other individuals regularly assigned to the classroom.

The work surface and seat shall be:

- a. Appropriate for the normal activity of the class conducted in the room, and
 - b. Capable of being moved into different configurations;
2. Have at least one ~~or more~~, non-electronic or electronic, mounted or retractable, surfaces, at least three feet by five feet, which fulfill all of the following purposes:
- a. Is erasable,
 - b. Is suitable for projection, and
 - c. Is suitable for display;
3. Have storage for classroom materials or conveniently accessible storage; and
4. Have secure storage for student records or conveniently accessible secure storage. Student records may be stored electronically.

R7-6-213. Classroom Temperature

A. A school facility shall have an HVAC or existing system capable of maintaining a temperature between 68° and 82° F under normal conditions with an occupied classroom.

~~B. Except in areas where the elevation is above 5,000 feet, defective or non-operable air conditioners and evaporative coolers shall be replaced with air conditioning. Non-air conditioned schools with elevations less than 5,000 feet shall be air conditioned.~~

R7-6-215. Classroom Air Quality

The CO2 level in each general and specialty classroom shall not exceed 700 ~~800 PPM~~ above the ambient CO2 level.

R7-6-216. Measuring Classroom Comfort

To determine whether a school facility complies with the standards in R7-6-212 through R7-6-215:

- 1. Classroom lighting, temperature, acoustics, and air quality shall be measured at a work surface in the approximate center of a classroom under normal conditions; and
- 2. Measuring shall be performed for a random sample of 10 percent of the general, science, and art classrooms in each building of the school facility;
- ~~3. All portable or modular buildings manufactured in the same year and installed at the school facility at the same time are considered a single building.~~

R7-6-220. Learning and Technology Center (Minimums on SF)

A. A school facility shall have a learning and technology center with space for students to access electronic and hard-copy research and reading materials. The learning and technology center shall include space for reading, listening, and viewing materials.

B. For an elementary school facility ~~that serves at least 150 students~~, the learning and technology center shall have space equal to ~~less than~~ greater of 1000 square feet or the square footage equal to 20 square feet per student for 10 percent of the student body.

C. For a middle or junior high or high school facility ~~that serves at least 150 students~~, the learning and technology center shall have space equal to ~~less than~~ the greater of 1200 square feet or the square footage equal to 20 square feet per student for 10 percent of the student body.

R7-6-221. Equipment for Learning and Technology Center

A. The learning and technology center of a school facility shall contain the following minimum equipment:

- ~~1. One linear foot of book shelf space per student;~~
2. ~~For a school facility of 150 or more students;~~ One work surface and seat for every 20 students with a maximum of 75 surfaces and seats;
3. One ~~tv~~ multi-media display;
4. Projection equipment and projection surface;
5. Ten books per student; and
6. An electronic or hard copy of each of the following:
 - a. Almanac,
 - b. Encyclopedia,
 - c. Atlas, and
 - d. Unabridged dictionary.

B. If a hard-copy almanac, encyclopedia, or atlas is used, each shall have a publication date of 2015 or later.

R7-6-227. Equipment List for Food Service

A. A school facility that receives, stores, prepares, and serves food to students shall have the following fixtures and equipment:

1. One three-compartment sink,
2. One double-stack oven or a warming oven,
3. One dishwasher if reusable dishes and silverware are used,
4. One hot-food holding appliance,
5. One range with hood,
6. One refrigerator,
7. One freezer, and
8. One milk refrigerator.

B. An alternative may be substituted for any item in subsection (A) if the alternative enables the school facility to receive, store, prepare, and serve food to students.

C. A school facility that receives, stores, and serves food prepared off the school site may adjust the items in subsection (A) accordingly such as the equipment required for a warming kitchen.

R7-6-230. Multi-Use Space

A school facility shall have a space capable of being used for student assembly. The space shall be:

1. Large enough to accommodate one-third of the student body, and

2. The same size or larger than an average classroom at the school facility, ~~and~~
3. ~~At least seven square feet multiplied by one-third of the student body in addition to the square footage of open aisle and exiting path space.~~

R7-6-235. Technology

A school facility shall provide at least one network connected multimedia device, available for student use, for every ~~eight~~ students. A multimedia device is a computer, tablet, or other smart device with internet access capable of presenting multimedia content

R7-6-247. Arts Facilities; Career and Technical Education Facilities

A. Except as specified in R7-6-251, a school facility with students in grades seven through 12 shall have space to deliver art education programs, including visual, music, and performing arts, and career and technical education programs.

B. A school facility with students in grades seven through 12 shall have four square feet per student of space for art education and/or career and technical education. The space shall not be smaller than the average classroom at the facility and may be used for other instruction when not needed for instruction in the arts or career and technical education.

C. A school facility with students in kindergarten through sixth grade may deliver art education in the classroom square footage specified in R7-6-210. Education in performing arts may be delivered to students in kindergarten through sixth grade in spaces such as a multiuse space, gymnasium, or cafeteria ~~if the spaces have appropriate acoustical treatment.~~

R7-6-251. Alternative Delivery Method

~~A school district may use an alternative method to deliver instruction in art, science, or career and technical education. Before an alternative method is used, the school district shall:~~

- ~~1. Have the school district governing board determine the alternative method is capable of meeting the requirements established in the academic standards prescribed by the State Board of Education for the specific subject; and~~
- ~~2. Approve use of the alternative method.~~

R7-6-258. Administrative Space

A. A school facility shall have space for use by the administration of the school. For the school administrator, 150 designated square feet is required. For general administrative purposes, a space between 150 square feet and 1.5 square feet per student, as reasonable for the size of the anticipated student body, is required. ~~The maximum may be exceeded.~~

B. A school facility shall have a space in which to isolate a sick student from the other students. This space shall be accessible to a restroom and large enough to accommodate one cot per 200 students, with a maximum of four cots.

C. A school facility shall have work space available to the faculty that is in addition to any work space in or near a classroom. A space between 150 square feet and one square foot per student, as reasonable for the size of the anticipated student body, is required. The faculty work space may be in multiple locations throughout the school facility and may have more than one function.

R7-6-260. Laws and Building Codes

~~A. To the extent required by law, school buildings shall be in compliance with federal, state and local building and fire codes and laws that are applicable to the particular building. Existing school buildings are not required to comply with current requirements for new buildings unless this compliance is specifically mandated by law or by the building or fire code of the jurisdiction where the building is located.~~

~~B. At a minimum, the most current 1997 Uniform Building Code (UBC) is required to be met for new school facility construction and, as required, for building renovations in existing schools.~~

R7-6-265. Building Systems

A. As required under A.R.S. § 15-2011(B)(3), building systems in a school facility shall be in working order and capable of being properly maintained. A building system is considered to be in working order and capable of being maintained if:

1. The system is capable of being operated as intended;
2. The system is capable of being maintained according to manufacturer's instructions;
3. Newly manufactured or refurbished replacement parts are available;
- ~~4. The remaining life expectancy of the system is at least three years;~~
- 5 4. The system is capable of supporting the gross square footage of the school facility; and
- 6 5. Components of the system present no imminent danger of personal injury.

B. Building systems required under A.R.S. § 15-2011(B)(3) to be in working order and capable of being maintained which include, but are not limited to: roof, plumbing, telephone, electrical, and HVAC systems. Additionally, under this Chapter, the following existing building systems shall be in working order and capable of being properly maintained which include, but are not limited to: fire alarm, two-way internal communication, network cabling, and security systems.

R7-6-261. Energy Saving Measures

~~Both construction of a new school facility and renewal of an existing school facility shall include energy conservation measures that will provide dollar savings in excess of the cost of the conservation measure within eight years of the construction or renewal.~~

R7-6-270. Building Structural Soundness

As required under A.R.S. § 15-2011(B)(4), all buildings of a school facility shall be structurally sound. A building of a school facility is considered structurally sound if the building has passed a structural analysis by a professional engineer.

- ~~1. Presents no imminent danger of personal harm,~~
- ~~2. Has no visible signs of major decay or distress, and~~
- ~~3. Appears to have at least three years of remaining life expectancy~~

R7-6-271. Exterior Envelope, Interior Surfaces and Interior Finishes

The exterior envelope, interior surfaces, and interior finishes of a school facility shall be safe and capable of being maintained.

1. An exterior envelope is safe and capable of being maintained if:
 - a. Walls and roof are constructed of materials requiring minimal maintenance, including painting;

- b. Walls, roof, doors, and windows are weather tight under normal conditions with routine upkeep; and
 - c. The building structural systems support the loads imposed on them.
2. An interior surface is safe and capable of being maintained if it is:
- a. Structurally sound;
 - b. Capable of supporting a finish; and
 - c. Capable of continuing in its intended use, with normal maintenance and repair, ~~for at least three years.~~
3. An interior finish is safe and capable of being maintained if it is:
- a. Free of exposed lead paint;
 - b. Free of friable asbestos; and
 - c. Capable of continuing in its intended use, with normal maintenance and repair, ~~for at least three years.~~

R7-6-275. Minimum Gross Square Footage

Each school district shall have sufficient school facilities, which comply with minimum school facility guidelines established in this Article, to meet the ~~per pupil~~ minimum adequate gross square footage requirements for such district as determined by law, ~~for such district based on number and grade distribution of the students served by the district.~~

R7-6-276. Assessment of Minimum Gross Square Footage

- A. Computation of the gross square footage of a school facility may be by ~~physical measurement~~ or by calculation based on architectural plan documents.
- B. The gross square footage of a school facility equals all space within the facility excluding space used for district administrative purposes.
- C. The gross square footage of a district shall equal the sum of the gross square footage of each school facility in the district.
- D. The minimum gross square footage of a district equals the sum of the products of the students in each grade or program for preschool ~~students~~ pupil with disabilities or kindergarten program multiplied by the minimum adequate gross square footage requirements per ~~student~~ pupil, applicable to the district for such grade or program.
- E. For the purpose of assessment of minimum gross square footage, the number of ~~students~~ children in all grades and kindergarten shall be evenly distributed across all grades and kindergarten served by the district.

Article 3. Square Footage Calculations

R7-6-301. Square Footage Calculations

A. A school district may use Class A bonds to supplement any project funded by the School Facilities Board pursuant to ~~A.R.S. § 15-2021~~ or A.R.S. § 15-2041. Pursuant to A.R.S. § 5-2002(HG), when a school district adds square footage to the district through the construction of a new school using Class A bonds, the School Facilities Board shall not provide funding to supplement the new school construction.

B. When a school district adds square footage to the district through the construction of a new school using either Class B bonds, or ~~unrestricted capital outlay monies~~ other funds, the School Facilities Board shall not include the square footage of the new school in the gross net square footage of the school district for ~~purposes of calculating building renewal distributions pursuant to A.R.S. § 15-2031 and for~~ determining needs for additional square footage pursuant to A.R.S. § 15-2011 and A.R.S. § 15-2041.

C. When a school district adds square footage to the district through the construction of a new school using Class A bonds, the School Facilities Board shall include the square footage of the new school in the gross net square footage of the school district for ~~purposes of calculating building renewal distributions pursuant to A.R.S. § 15-2031 and for~~ determining needs for additional square footage pursuant to A.R.S. § 15-2011 and A.R.S. § 15-2041.

D. A school district that uses Class B bonds and/or ~~unrestricted capital outlay monies~~ other funds to add or replace square footage at existing schools shall have the additional square footage or replacement square footage treated as follows:

1. A school district that adds square footage to an existing school with the use of Class B bonds or ~~unrestricted capital outlay monies~~ other funds shall not have the additional square footage included in the determination of minimum adequate square footage pursuant to A.R.S. § 15-2011(C), but the School Facilities Board shall consider the additional square footage for purposes of determining adequacy of the functional components of the school as specified in the Minimum School Facilities Guidelines set forth in Article 2 ~~R7-6-201 through R7-6-285~~.

2. A school district that both removes and adds square footage with the use of Class B bonds or ~~unrestricted capital outlay monies~~ other funds shall not have the net additional square footage included in the determination of minimum adequate square footage pursuant to A.R.S. § 15-2011(C), but the School Facilities Board shall consider the net additional square footage for purposes of determining adequacy of the functional components of the school as specified in the Minimum School Facilities Guidelines set forth in Article 2 ~~R7-6-201 through R7-6-285~~.

~~3. For purposes of calculating building renewal pursuant to A.R.S. § 15-2031, replacement square footage constructed with Class B bonds or unrestricted capital outlay monies shall be included, but net additional square footage shall be excluded.~~

~~4~~ 3. If a portion square footage is replaced at an existing school with the use of Class B bonds or ~~unrestricted capital outlay monies~~ other funds, the student capacity of the facility after completion of the project will be determined in the same manner as it would have been determined prior to the addition. If Class B bonds or ~~unrestricted capital outlay monies~~ other funds are used to construct a complete replacement school, the student capacity of the facility once the project is completed will be based on the provisions of A.R.S. § 15-2011(C).

~~5~~ 4. For purposes of this Section, replacement square footage is defined as square footage constructed with Class B bonds or ~~unrestricted capital outlay monies~~ other funds that replaces existing square footage.

E. If square footage is added to or replaced at an existing school with the use of Class A bonds, the student capacity of the facility after completion of the project will be determined in the same manner as it would have been determined prior to the addition.

~~F. The method of computing the funding and square footage for any expansion of a core facility previously funded by the School Facilities Board shall follow the same method that was used for computing the original core facility.~~

Article 5. New School And Land Funding

R7-6-501. Capital Plans

If a school district's capital plan, developed pursuant to A.R.S. § 15-2041, indicates a need for a new school or an addition to an existing school within the next four years or a need for land within the next ten years, the school district shall complete the capital plan packet issued by the School Facilities Board and return the packet to the Board by the ~~announced~~ deadline prescribed in A.R.S. § 15-2041(C).

R7-6-502. Funding for New Schools or Additional Square Footage

A. The data submitted by each school district requesting additional square footage under the capital plan shall be reviewed by staff to determine student capacity. Additionally, staff shall review and ~~verify~~ analyze district student population projections and the existing square footage in the district. The staff shall prepare a New Construction Analysis for the district.

B. If the proposed new school facilities are located in territory in the vicinity of a ~~military~~ airport as defined in A.R.S. § 28- 8461, the Board shall provide notice to the ~~military~~ airport of the proposed new school facility construction and seek the ~~military~~ airports comments and analysis concerning compatibility of the proposed school facilities with the high noise or accident potential generated by ~~military~~ airport operations that may have an adverse effect on public health and safety. The Board shall consider and analyze the comments and analysis provided by the ~~military~~ airport prior to making a final determination to fund the new square footage.

C. The Board shall make a decision regarding the number of square feet and students to be funded for the district, the ~~appropriate cost~~ funding per square foot approved by the Legislature and the total budget based on the funding per square foot. At the time the Board is making its decision, the New Construction Analysis shall be available to the Board members and the school district. The school district may address the Board at this time.

D. ~~A school district that is approved for additional square footage shall have 60 days from the date of notification to officially accept, in writing, funding for the square footage approved by the Board or the approval shall expire. After a school district has accepted a project in writing and has signed the Terms and Conditions for New School Funding, the Board may shall provide make available~~ five percent of the monies approved for architectural and engineering fees ~~for projects of \$500,000 or more~~. The individual school district shall be responsible for establishing the actual A and E amount.

E. A school district that receives approval for additional square footage from the Board shall proceed with the design development plan and specifications for the project. ~~Two~~ One or more copies of the proposed ~~educational goals or~~ drawings, specifications and schematic design, with budget estimates are required to be submitted to the ~~Board's~~ staff. The items required to be included in the estimated budget are all elements of new construction, excluding land acquisition. These elements are included, but are not limited to:

1. Architectural and engineering fees;
2. Survey, testing, permits, advertising and printing;
3. Construction costs;
4. Furniture, fixtures and equipment;
5. Any necessary project management; and

6. A ~~five~~ three percent ~~contingency retention~~ amount to ensure the completed project meets all Minimum Adequacy Guidelines. ~~After Board staff review, the school district shall proceed with a preliminary bid package.~~

~~F. If the school district includes reasonable upgrades to the new construction project for energy conservation purposes, the Board shall provide funding upgrades above the formula based award to cover the full amount of the upgrade. Upgrades will only be funded if the upgrade receives pre-approval by the Board staff and the school district architect or engineer certifies that the upgrade will provide dollar savings in excess of the cost of the upgrade within an eight-year period.~~

~~G F. Upon review of the submitted schematic construction design documents, budget estimates and preliminary bid procurement package, the Board's staff shall make a recommendation to the Board regarding the appropriateness of the school district to proceed with the additional square footage and the efficiency and effectiveness of the plan. The staff recommendation shall be based on whether the project is within the original scope and Board approved budget (including square footage and number of students), the project meets the minimum adequacy guidelines building adequacy standards, initial comments from the local building authority and whether revised student population projections continue to justify the additional square footage. If the Board approves the project, the school district shall be authorized to proceed with construction the final bid package. Prior to authorization to contract the school district shall document that it has obtained local (city, county or equivalent) building department approval. For projects outside of the original scope and /or Board approved budget or that do not meet the minimum adequacy guidelines, the Board may instruct the school district to resubmit the project, or the Board may make an alternative decision. Local Other funds may be used by the school district in conjunction with the Board approved funding.~~

~~H. Upon receipt of bids by the school district, the Executive Director shall authorize the district to proceed with the contract if the school district has documented that it has obtained local (city, county or equivalent) building department approval, and the bid is within the original scope and Board approved budget, and meets the building adequacy standards. The Executive Director may make an alternative recommendation to the full Board.~~

~~I. The Board approved funding for additional square footage shall be available to the school district for one year from the date of notification. The bid process shall be completed within the one-year period. The Board shall consider requests for an extension beyond the one year and may grant an extension for good reason.~~

~~J G. The Board may modify or waive the requirements of this Section for good cause.~~

ARTICLE 6. CONTINGENCY FUNDS

~~R7-6-601. Allocation and Use of Contingency Monies~~

~~A. A sum equal to a percentage of the construction cost bid shall be set aside as a contingency fund to cover the cost of unknown conditions that could arise during construction. The School Facilities Board shall set aside an amount equal to five percent of the base cost for new construction and ten percent of the base cost for renovation of a structure or system replacement to cover these potential costs. Contingency funds are not part of the construction budget and are to be used only if needed. For deficiency corrections projects, any contingency funds which are~~

~~not used shall be returned to the deficiency corrections fund. For projects funded by the new school facilities fund, any contingency funds which are not used may be used by the school district in accordance with A.R.S. § 15-2041.~~

~~B. The mechanism that is used to spend contingency funds during construction is a “change order.” There are three types of situations that generally require a change order:~~

- ~~1. An unknown condition that was not determined until after construction was started and that requires a change, deletion or addition to the construction contract.~~
- ~~2. The school district has determined to change the scope of work and add to or delete from the contract.~~
- ~~3. A change is required to correct a discrepancy between what the contractor bid and what the architect and owner intended. This type of change order could be determined as an “error or omission” on the part of the architect. If so, the owner should pursue the architect’s error and omissions insurance to recover the costs of the required change.~~

~~C. Change orders can be additive or subtractive to the construction contract and both should be used. All changes in the scope of the contract and the contract documents should be considered potential change orders. Change order should not be used to correct conditions known prior to or discovered during the bid process. These should be addendum items and made part of the bid.~~

~~D. The following conditions apply to the use of all contingency monies allocated to a specific project approved by the School Facilities Board. If the district wishes to issue change orders that do not comply with these rules, the associated costs shall be accounted for separately and not considered part of the approved project. In other words, they would need to be paid out of separate monies and would not be considered part of the approved project, even though they might be included in the same basic contract. These costs would be paid for using local funds.~~

- ~~1. The school district may use contingency monies only to cover change orders that are to correct unknown conditions.~~
- ~~2. Contingency funds may not be used to cover change orders for the other two types of situations discussed in subsection (B) above: the district has determined to change the scope of work during construction by adding components, or a change is required to correct a discrepancy created by the architect that could be considered an error or omission by the architect.~~
- ~~3. For deficiency correction projects performed pursuant to A.R.S. § 15-2021 only, the Executive Director shall have the discretion to authorize the use of contingency funds for expansion of scope, to accommodate low budget estimates, and for all other project related costs.~~
- ~~4. Contingency monies shall not be used to pay for “bid add alternates.” These items are not part of the final approved project.~~

~~E. A school district whose deficiency correction projects are combined with the deficiency correction projects of one or more additional school districts pursuant to R7-6-401 shall have the contingency amount included as a percentage of the overall set of projects that have been~~

~~grouped together for such purposes. The Executive Director shall have the discretion to use, transfer, and/or combine the contingency amounts for any projects within such a group to any other project within the group of projects. The Executive Director's adjustment authority pursuant to R7-6-401 shall be considered as a percentage or sum of the overall group of projects. F. The Board may modify or waive the requirements of this Section for good cause.~~