

**SECTION 13 – RELEVANT STATE LAWS AND REGULATIONS**

## 13.01 OVERVIEW OF RELEVANT LAW AND REGULATION

### The Distinction between Laws and Regulations

The difference between laws and regulations are sometimes misunderstood. In Maryland State law, the General Assembly enacts laws. The Maryland General Assembly's website [www.mlis.state.md.us](http://www.mlis.state.md.us) is the definitive source for information and relevant links. State executive departments and administrative agencies write regulations to implement the authority of laws. The Annotated Code of Maryland is the official compilation of codified laws by subject.

Regulations (as well as Executive Orders and Proclamations) are ancillary or subordinate to laws but both laws and regulations are enforceable. The Code of Maryland Regulations (COMAR) is the official compilation of regulations. Under State Government Article, §7-217, Annotated Code of Maryland, the printed version of COMAR is the official and enforceable text. You may view COMAR on the Division of State Documents web site <http://www.dsd.state.md.us/COMAR/ComarHome.html> where you may search by number, title, or contents. Only the official text may be judicially noticed under Courts and Judicial Proceedings Article §10-203 Annotated Code of Maryland.

- A. State capital funds to assist the Maryland community colleges in The Community College Construction Grant Program were established in 1970 and provide acquisition of property and in the planning, design, construction, renovation, and equipping public and regional community college buildings, site improvements, and facilities. Funds appropriated for this purpose are administered in accordance with Title II, Maryland Higher Education Commission, SubSection 11-105(j) of the Education Article, Annotated Code of Maryland.

This section contains or identifies the regulations for the administration of the State of Maryland Junior, Community, or Regional Community College Construction Loan Program. These regulations are required by the Education Article, Title 16-101 through 16-610, Community Colleges.

- B. Throughout this document, reference is made to the applicable regulatory requirements that are either associated with the responsible agency and/or component of the overall process. These include:
  - 1. Code of Maryland Regulations (COMAR), Title 13B, Maryland Higher Education Commission, Subtitle 07 Community Colleges, Chapter 04 Construction Procedures (13B.07.04).
  - 2. Code of Maryland Regulations (COMAR), Title 13B, Maryland Higher Education Commission, Subtitle 07 Community Colleges, Chapter 05 Space Allocation Guidelines (13B.07.05).

3. Annotated Code of Maryland, State Finance and Procurement Article, Section 3-603(d), setting forth the requirements for an architectural program for each capital project.
4. Annotated Code of Maryland, State Finance and Procurement Article, Section 8-301(a), setting forth the requirement that Board of Public Works approval of contracts are required prior to award if using State General Obligation Bonds.
5. Annotated Code of Maryland, State Finance and Procurement Article, Sections 14-101 and 14-103 which sets forth the requirement of a program proposal for any new instructional program to MHEC.
6. 1996 (FY 1997) Capital Joint Chairmen's Report (JCR) which authorizes the construction contingency fund for Community College Construction Grant Program along with applicable guidelines.

The Annotated Code of Maryland §11-105(c) and §11-105(j), and the Code of Maryland Regulations (COMAR) 13B.07.04 and 13B.07.05 are presented on the following pages.

## 13.02 ANNOTATED CODE OF MARYLAND, EDUCATION, TITLE 11 (Selected Sections)

### Source:

Maryland Code/EDUCATION/TITLE 11. MARYLAND HIGHER EDUCATION COMMISSION/SUBTITLE 1. COMMISSION ESTABLISHED AND ORGANIZED/§ 11-105. General powers and duties.

- (c) **Community colleges.** -- With respect to the community colleges, the Commission:
  - (1) May provide grants-in-aid for the planning of new community colleges and new programs in existing community colleges;
  - (2) Shall administer programs of State support and financial assistance for the community colleges;
  - (3) Shall assist and represent the community colleges in seeking and administering federal moneys available to them;
  - (4) May designate any community college instructional program as a statewide or regional program;
  - (5) Shall assure that courses and programs offered are within the scope of the mission of the community colleges;
  - (6) Shall assure that State funds for community colleges are spent prudently and in accordance with State guidelines;
  - (7) Shall provide centralized data processing assistance; and
  - (8) Shall coordinate relationships between the community colleges, the State and county public school systems, and the private high schools to:
    - (i) Facilitate cooperation among them in the guidance and admission of students to the community colleges; and
    - (ii) Arrange for the most advantageous use of facilities.
- (d) Duties with respect to regional higher education centers. --
  - (1) A regional higher education center must be approved by the Commission before the center is authorized to operate in the State.
  - (2) With respect to the regional higher education centers, the Commission:
    - (i) May require submission of strategic plans in accordance with guidelines adopted by the Commission;
    - (ii) May provide grants to regional higher education centers for ongoing operating expenses and lease payments in accordance with the funding formula in paragraph (4) of this subsection;

- (iii) Shall administer programs of State support and financial assistance for the regional higher education centers;
- (iv) Shall assure that courses and programs offered are within the scope of the approved missions of the regional higher education centers and specifically satisfy the criteria set forth in § 10-212(b) of this article; and
- (v) Except as provided in paragraph (3) of this subsection, shall assure that State funds for the regional higher education centers are:
  - 1. Spent prudently and in accordance with State guidelines; and
  - 2. Consistent with the State Plan for Higher Education and the approved mission statements of the regional higher education centers.
- (3) With respect to the regional higher education centers administered by the University System of Maryland, the University System of Maryland shall assure that State funds for the regional higher education centers are spent prudently and in accordance with State guidelines.
- (4) (i) 1. In this paragraph the following words have the meanings indicated.
  - 2. "Degree-seeking student" means a student enrolled in a 2+2, baccalaureate, master's, or doctoral degree program at a regional higher education center.
  - 3. "2+2 program" means a collaborative program between a community college and a 4-year university that leads to a bachelor's degree.
    - (ii) As funding is provided in the annual State budget, the Commission shall calculate the amount of the annual apportionment for each regional higher education center administered by the Commission using the following funding formula:
      - 1. A base allocation for each center of \$ 200,000;
      - 2. Incentive funding for degree-seeking, full-time equivalent students that is tied to the inflation-adjusted fiscal year 2005 General Fund appropriations per full-time equivalent student at the Universities at Shady Grove;
      - 3. Lease funding for centers with leased space that have not received State capital funding support; and
      - 4. Special funding for one-time projects or start-up costs.
    - (iii) The Commission shall adopt regulations to implement the funding formula in this paragraph.
- (e) Responsibility for federal programs and funding. --

- (1) The Commission is the State Postsecondary Education Commission under Title XII of the Higher Education Act of 1965.
- (2) The Commission is the State approving agency for purposes of implementing educational benefit programs administered by the Veterans Administration.
- (3) The Commission is responsible for receiving and allocating federal funds that, under federal law or regulation, must be allocated among segments by a statewide authority.
- (f) Desegregation and equal educational opportunities. --
  - (1) The Commission is responsible for:
    - (i) Developing a program of desegregation and equal educational opportunity, including developing an enhancement plan, for historically African American colleges and universities;
    - (ii) Monitoring the progress made under, and assuring compliance with, the goals, measures, and commitments contained in the desegregation and equal education opportunity plan;
    - (iii) Making recommendations concerning needed resources for achieving the goals and objectives under this subsection;
    - (iv) Requiring reports from each governing board concerning progress toward equal opportunity in all activities and programs under its jurisdiction; and
    - (v) Reporting to the Governor and, subject to § 2-1246 of the State Government Article, the General Assembly regarding the progress of compliance with desegregation and equal education opportunity plans.
  - (2) In carrying out its responsibilities under this subsection, the Commission may:
    - (i) Designate a division or office to coordinate and monitor the equal opportunity activities of public institutions of higher education in the State;
    - (ii) Require the governing boards of public institutions of higher education to submit plans, reports, and data, in the format and using such forms as the Commission prescribes; and
    - (iii) Evaluate the effectiveness of institutional efforts and methods.
- (g) Administration of State funds. -- The Commission shall:
  - (1) Administer State funds for private nonprofit institutions of higher education in the State; and
  - (2) Assure that the purposes for which these funds were appropriated are achieved.

- (h) Information; research; inspections; evaluations; assessment of and recommendations for funding. -- The Commission:
  - (1) May secure, compile, and evaluate information on any matter within its authority, in the format it requires, from any person, agency, regional higher education center, or institution subject to its authority;
  - (2) May engage in research, data compilation, and publication of reports concerning postsecondary education in the State;
  - (3) Through its representatives, may visit at any reasonable times and make reasonable inspections of any institution of postsecondary education or regional higher education center subject to its authority;
  - (4) In consultation with the segments of higher education, shall develop guidelines to assess the adequacy of operating and capital funding based on comparisons with institutions designated as peer institutions and other appropriate factors; and
  - (5) In consultation with the Department of Budget and Management, annually shall make recommendations consistent with the Charter and the plan under subsection (b) of this section on the appropriate level of funding for higher education.
  
- (i) Budget; capital projects and improvements. --
  - (1) On or before a date set by the Commission, each of the following governing boards and agencies shall submit to the Commission its annual operating budget requests and proposals for capital projects, by constituent institutions and affiliated regional higher education centers for the next fiscal year:
    - (i) The Board of Regents of the University System of Maryland;
    - (ii) The Board of Regents of Morgan State University;
    - (iii) The Board of Trustees of St. Mary's College of Maryland;
    - (iv) The State Advisory Council for Title I of the Higher Education Act of 1965;
    - (v) The Board of Trustees of Baltimore City Community College;
    - (vi) The Board of the Maryland Higher Education Investment Program; and
    - (vii) The governing body of each regional higher education center.
  - (2) In consultation with the Department of Budget and Management, the Commission shall present to the Governor, on or before a date set by the Governor, and simultaneously submit a copy to the General Assembly, a consolidated operating and capital budget for higher education that includes the operating and capital budget requests of the governing boards and institutions listed in paragraph (1) of this subsection, the operating budget request of the Commission, a report on the current

funding of the adopted sets of peer institutions, and recommendations regarding the funding of higher education.

- (3) In cooperation with the Department of Budget and Management, and without affecting the authority or responsibility of the Department under the State Finance and Procurement Article, the Commission shall:
  - (i) Review proposals for capital projects and improvements proposed by the public institutions of higher education in this State, by the Maryland Independent College and University Association, and by the regional higher education centers; and
  - (ii) Develop and submit to the Governor and the General Assembly recommendations as to these projects, which shall be consistent with the State Plan for Higher Education provided for in this section.
- (4) In submitting recommendations pursuant to paragraph (2) of this subsection, the Commission shall comment on the overall level of funding for higher education in order to achieve the goals established in the State Plan for Higher Education, and may comment regarding funding priorities among segments of higher education and, within public senior higher education, among institutions. In reviewing the various budgets and submitting recommendations thereon, the Commission:
  - (i) May not require, of any segment or institution, a detailed budget presentation that tends to duplicate other presentations required in the budget process;
  - (ii) As to the funding priority of any institution, may comment only on the entity as a whole and not on any separate unit of the institution; and
  - (iii) As to the operating and capital budgets of the Board of Regents of the University System of Maryland and the Board of Regents of Morgan State University:
    - 1. May review and comment only within the broad context of the State Plan for Higher Education; and
    - 2. May not recommend against a budget item approved by the Board of Regents unless the item is clearly inconsistent with the State Plan for Higher Education.
- (5) (i) In this paragraph, "higher education" means:
  - 1. The University System of Maryland;
  - 2. Morgan State University;
  - 3. St. Mary's College of Maryland;



provided by the State for the general public junior or community college and regional community college construction program, the jurisdiction or jurisdictions shall file with the Commission a petition and such information as the Commission requires, together with a complete proposal for each project for which financial assistance is desired.

- (ii) The Commission shall submit to the Department of Budget and Management a copy of each petition and project proposal.
- (4) On receipt of the recommendations of the Department of Budget and Management on each petition and project proposal, the Commission shall make a written report to the Board of Public Works describing the request or requests for financial assistance received and recommending a disposition for each request.
- (5) The Board of Public Works shall approve each grant and shall certify the amount of the grant to the Treasurer and the Comptroller. The Comptroller shall issue a warrant to the Treasurer to pay the grant to or on behalf of the petitioning jurisdiction or jurisdictions, when needed, for design and construction or the acquisition of real property or interests in land. The decision of the Board of Public Works shall be in such form as the Board deems advisable and shall be final and conclusive.
- (6) The amount of the grant shall be a percentage of total design and construction costs, including site acquisition and development costs, as follows:
  - (i) For a regional community college established under § 16-202 of this article, 75 percent; or
  - (ii) For a public junior or community college that is not a regional community college, the greater of:
    - 1. A percentage equal to that percentage of the foundation program that the State pays to the petitioning jurisdiction under § 5-202(b) of this article up to a maximum of 70 percent; or
    - 2. 50 percent.
- (7) The Commission shall adopt regulations in accordance with Title 10, Subtitle 1 of the State Government Article concerning the administration of the general public junior or community college and regional community college construction program.

Annotated Code of Maryland

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## 13.03 COMAR, TITLE 13B, CHAPTER 4 CONSTRUCTION PROCEDURES

### Title 13B MARYLAND HIGHER EDUCATION COMMISSION

#### Subtitle 07 COMMUNITY COLLEGES

### Chapter 04 Construction Procedures

**Authority: Education Article, §11-105, and Title 16, Annotated Code of Maryland**

13B.07.04.01

***.01 College Facilities.***

A. A college shall:

(1) Submit to the Commission for review and comment a proposal for any capital construction project, regardless of the source of the funds, in accordance with guidelines and procedures required by the Commission in the Maryland Community College Facilities Manual;

(2) In submitting a proposal for a project for which the college is not eligible or does not seek State participation, indicate:

(a) Why additional space beyond current guidelines is necessary, if applicable,

(b) How the space will be used, and

(c) The estimated life cycle impact of the proposed facility on the operating costs of the college;

(3) Before submitting educational specifications for new capital projects, submit to the Commission a letter of intent and program proposal, in accordance with COMAR 13B.02.02, for any new instructional program to be housed in the proposed facility.

B. The Commission shall establish annually:

(1) A revised capital construction project priority list for purposes of State participation; and

(2) Enrollment projections to be used by the college to prepare capital construction projects.

C. For purposes of determining the statutory limit on State financial participation in the college capital construction projects, the proposed capacity of the college in number of students shall be the approved projected 10-year full-time equivalent enrollment as adopted by the Commission.

D. A college may not enter into an agreement to sell, lease, transfer, or otherwise dispose of real property in which the State has participated without the prior approval of the Commission and the subsequent approval of the Board of Public Works.

13B.07.04.02

***.02 Facilities Master Plan (Includes Baltimore City Community College).***

A. Each college shall develop and submit by February 1 of each year a facilities master plan or addendum which supports the college's role and mission. The plan shall cover a period of not less than 10 years. Colleges should consider developing 20-year land use plans.

B. A college should regularly review the college's facilities master plan. The plan shall be updated every 5 years or whenever major changes occur in the role and mission statements or in other plan components which have significant facilities implications.

C. The facilities master plan shall include:

- (1) An executive summary;
- (2) A statement of the college's role and mission as described in §D of this regulation;
- (3) Assessment and analysis of existing land and facilities and planning assumptions as described in §E of this regulation;
- (4) Specific plans to meet identified needs, including:
  - (a) Land use, acquisitions, and divestiture plans;
  - (b) Building use;
  - (c) Restoration of facilities to satisfactory physical condition, including infrastructure;
  - (d) Need for renovations to meet programmatic standards, to provide more appropriate support for proposed uses, or to provide access for persons with disabilities;
  - (e) Vehicular and pedestrian circulation;
  - (f) Utilities extensions and improvements;
  - (g) Long-range telecommunications plan needs which address the future requirements of the college for voice, data, video, and radio;
  - (h) New construction;
  - (i) A site development plan; and
  - (j) An approach for updating the plan;

(5) Details of plans for all projects in the plan prepared under PlanMaryland<sup>1</sup> Goals and Objectives and Guidelines for Capital Budgeting; and

(6) An implementation strategy, including:

(a) A summary of individual projects with title, brief description, and projected cost in constant dollars;

(b) Recommended sequencing of projects including relative urgency of need and constraints which require that certain projects precede certain other projects; and

(c) The impact of implementation and consequences of non-implementation on educational programs, enrollments, and operating costs.

D. Statement of the College's Role and Mission.

(1) This statement shall describe the most significant characteristics of the college which impact upon the college's facilities requirements, and shall be consistent with the college's approved role and mission statement. The statement shall, at a minimum, address the characteristics in §D(2) and (3) of this regulation.

(2) Enrollment information shall include:

(a) Overall size and composition of the student population;

(b) Enrollment by level and division and other significant characteristics, such as part-time population; and

(c) Enrollment projections, which shall be for the life of the plan, based upon the enrollment projections approved by the Commission.

(3) Characteristics to be addressed also include:

(a) Number of faculty and staff supporting implementation of the college role and mission;

(b) Student/faculty ratios and class sizes;

(c) Array of approved academic programs existing and projected during the life of the plan;

(d) Unique institutional characteristics; and

(e) Significant new initiatives planned which have facilities implications.

E. Assessment and Analysis of Existing Land and Facilities and Planning Assumptions.

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<sup>1</sup> The Maryland Department of Planning is coordinating the development of *A Better Maryland*, the new state development plan. The new plan is to be completed by July 1, 2019.

(1) All proposed new campuses or new site development shall be assessed and analyzed. The college shall use the Maryland Higher Education Commission site analysis and scorecard when evaluating sites for a new campus. This document is available from the Commission. The physical characteristics of the campus shall be described as well as the changes which are required to meet the objectives in the college's stated role and mission.

(2) All proposals for new campuses, new site development, and new facilities projects shall conform to PlanMaryland Goals and Objectives and Guidelines for Capital Budgeting.

(3) At a minimum, the assessment and analysis required by this section shall include the following elements:

(a) A description of existing facilities and acreage;

(b) An assessment of the physical condition of buildings or an independent verification of condition assessments;

(c) An assessment of the functional adequacy of buildings, including discussion of the adequacy and appropriateness of space to support the activities of the faculty, students, and staff using the facilities;

(d) Utilization of existing facilities;

(e) Assessment of the physical condition and functional adequacy of the infrastructure;

(f) Adequacy of existing land;

(g) Capacity for future development;

(h) Assessment of environmental compliance;

(i) Space guideline calculations to provide one estimate of the space needed by type; and

(j) Identification of specific activities which need to be accommodated on the campus over at least the next 10 years.

#### F. Review Process for Facilities Master Plans.

(1) A board of trustees approved new or updated facilities master plan shall be submitted concurrently to the Commission, the Department of Budget and Management, the Department of General Services, and the Maryland Office of Planning.

(2) The Commission shall review the plan with specific attention to:

(a) Conformity with PlanMaryland Goals and Objectives and Guidelines for Capital Budgeting;

- (b) An assessment of how the plan supports the role and mission of the college;
  - (c) The current and projected enrollment and staff (full-time day equivalent students, full-time equivalent students, weekly student contact hours, full-time equivalent faculty, full-time equivalent staff) in relation to consistency with the approved role and mission statements and consistency with the approved Commission enrollment projects;
  - (d) The array of academic programs on which the plan is based for consistency with the approved role and mission statement;
  - (e) Space guideline calculations and proposed deviations from the guidelines;
  - (f) Library construction with regard to:
    - (i) New technologies in the areas of electronic information management, storage, and retrieval;
    - (ii) Library automation; and
    - (iii) New forms of book storage such as compact shelving;
  - (g) The adequacy of facilities contained in the plan to accommodate the existing and proposed academic and support requirements at the college, including appropriate planning for telecommunications infrastructure and libraries; and
  - (h) Consistency with the Statewide Capital Improvements Plan.
- (3) The comments of the Department of Budget and Management shall focus primarily on the review of space guidelines analysis, physical planning considerations, and cost/benefit considerations, and may not duplicate the Commission's analysis of enrollment and staffing projections and academic proposals.
- (4) The Department of General Services and the Maryland Office of Planning shall concurrently submit questions and concerns to the Commission and the Department of Budget and Management. The Commission shall forward its questions and concerns to the Department of Budget and Management to facilitate a consolidated response to the college from the Commission and the Department of Budget and Management. The college shall provide a response addressing the questions and concerns and may choose to modify its plan as a result of the issues raised. If appropriate, a meeting including the review agencies and the college may be held to assure a coordinated approach to completing the review process.
- (5) Final action shall consist of one of the following decisions:
- (a) Unconditional endorsement of the plan as the basis for further development of the college involved;

(b) Conditional endorsement of the plan as the basis for further development of the college, with the conditions explicitly stated; or

(c) Return of the plan, with a request for resubmission with changes.

13B.07.04.03

***.03 Five-Year Capital Improvements Program/Annual Capital Budget Request Submission.***

A. The purpose of the Five-Year Capital Improvements Program and Annual Capital Budget Request process is to identify the capital improvement needs by project and by year for the 5-year period, to develop a Statewide plan of action for college capital improvements, and to establish priorities for the implementation of the plan.

B. A college shall submit, by July 1 of each year, a 5-year capital improvements program. The first year of the program shall constitute the college's annual capital budget request.

C. Projects identified in the program shall be consistent with PlanMaryland Goals and Objectives and Guidelines for Capital Budgeting and the approved facilities master plan. The program shall be updated annually to reflect actual capital appropriations and any changes affecting project priorities within the program, as well as to add an additional year.

D. Each year, the Commission shall establish a set of priority categories to guide colleges in the development of the 5-year capital improvements program and the annual capital budget request. The Commission shall assess requested projects using these priority categories.

E. Components of the 5-year capital improvements program of a college shall include:

- (1) Updated space guideline calculation tables;
- (2) A 5-year summary of projects;
- (3) Projects included in the annual budget request;
- (4) Projects planned for the subsequent 4 years; and
- (5) A brief description and justification of each project.

F. Review Process for Five-year Capital Improvements Program.

(1) A facility program statement is required for each project to be included in the 5-year capital improvements program. The program statement consists of Part I/project justification and Part II/technical specifications. A college shall submit a Part I/project justification by May 1 of the year in which the project is to be included in the 5-year capital improvement program for the first time. The Part I/project justification shall be submitted to the Commission.

(2) The Commission review of the Part I/project justification shall focus on:

(a) Project consistency with college facilities master plans;

(b) Project justification with regard to the goals of the Statewide Plan, consistency with the college's role and mission, the programmatic needs of the college, the overall space needs of the college, and the adequacy and physical condition of existing facilities;

(c) Conformity with PlanMaryland Goals and Objectives and Guidelines for Capital Budgeting; and

(d) Prioritization of the project within the Commission's Statewide Five-Year Capital Improvements Program.

(3) The Part II/technical specifications shall be submitted by May 1 of the year in which the design funds are requested. The Part II/technical specifications review shall be conducted by the Department of Budget and Management, the Department of General Services, and the Maryland Office of Planning.

(4) If the timing of the project is such that design funds are being requested in the same year in which the project will first appear in the 5-year capital improvement program, then the Part I/project justification and the Part II/technical specifications shall be submitted simultaneously on May 1 of the year in which the request for design funds is submitted.

(5) As indicated in §B of this regulation, the first year of the 5-year capital improvements program constitutes a college's annual capital budget request. The Commission shall rank all projects, compile a system-wide request, and recommend an integrated annual capital budget to the Governor and the Legislature.

#### **13B.07.04.04**

##### ***.04 Site Selection.***

A. The general location for each proposed college or addition to a college shall be selected by the board of trustees for the college concerned, and submitted for the approval of the Commission and the Board of Public Works through the Department of General Services, which shall seek comments and recommendations from the Maryland Office of Planning.

B. The comments and recommendations shall be attached to and made a part of the document submitted to the Board of Public Works. Selection and purchase of a specific site shall be in accordance with this chapter.

### C. Specific Site Selection Procedure.

(1) The board of trustees of the college shall study the available sites and have prepared a report that ranks the available sites in order of preference. Technical data, including proximity within PlanMaryland planning areas and a site check list, shall support this ranking.

(2) The board of trustees of the college may, at its discretion, authorize obtaining the following on any of the available sites as the board of trustees considers appropriate:

(a) Surveys;

(b) Appraisals;

(c) Test borings; and

(d) Title searches.

(3) State participation in these technical studies shall be limited to the study of one site.

(4) The college shall identify the specific tentative site selected and advise the Secretary of its selection.

(5) Material supporting the selection of the specific site in §C(4) of this regulation, including an analysis of alternative sites which were considered, shall be submitted to the Secretary. The Secretary shall submit these documents to the Department of General Services and the Maryland Office of Planning for their confidential review and findings.

(6) The board of trustees of the college, when it considers it desirable, upon written petition from the citizenry, or upon request by the county government, may conduct a public hearing. If a public hearing is held, formal minutes shall be taken and copies of these minutes shall be included as part of a formal submission to the Commission.

(7) The approval of a specific site shall be made in accordance with applicable local and State statutes.

(8) The Secretary shall notify the college of the responses of the Department of General Services and the Maryland Office of Planning.

(9) After the notification in §C(8) of this regulation, the board of trustees of the college shall authorize negotiations with the owner or owners and the obtaining of an option or options for a particular site purchase, contingent upon the approval of the Board of Public Works.

(10) The college shall request that the Secretary obtain the approval of the Commission to purchase the specific site. The Commission shall forward its recommendation together with the option or

options, and two independent appraisals for each parcel, to the Board of Public Works through the Department of General Services for its final approval of the specific site.

(11) When it is not possible to obtain an option on a specific site or portion of a site, the board of trustees shall request the Secretary to inform the Board of Public Works that an option is not obtainable but that the board of trustees plans to proceed to acquire the specific site or portion of the site through other means. If condemnation is subsequently necessary, the board of trustees shall authorize that action and inform the Secretary.

(12) The Board of Public Works is not bound to approve State participation in any judgment rendered by a jury or court in condemnation proceedings.

13B.07.04.05

***.05 Obtaining Conditional Allocation for State Funds (Not Applicable to Baltimore City Community College).***

A. When a county desires State financial assistance for capital projects, the board of trustees for the college concerned shall, by resolution of the governing body of the county, request the filing of the necessary petition with the Commission.

B. When the governing body of the county approves the request of the board of trustees for the college and wishes to apply for a grant under the applicable construction loan act, the governing body shall file with the Commission a petition including the detailed description of the proposed project.

13B.07.04.06

***.06 Project Administration (Not Applicable to Baltimore City Community College).***

A. The Department of General Services and the Department of Budget and Management are responsible for certain aspects of monitoring and administering capital projects. A college shall comply with the specific requirements of these agencies.

B. Architect Selection and Design Stage.

(1) The Secretary shall identify the source or sources of State funds and recommend the allocation for design. Before the Secretary's recommendation, the college shall submit a resolution and petition to the Secretary to request funds.

(2) During the design stages of a project, the college shall furnish net assignable space tabulation sheets to the Commission. After the space has been initially approved, justification for a subsequent increase of 10 percent or more shall also be provided.

C. Procurement.

(1) The Secretary shall identify the source or sources of State funds and recommend the construction allocation before the Board of Public Works approval of the contract award. The Secretary's recommendation shall be based on the availability of bond funds. The Secretary's determination shall be transmitted to the Department of Budget and Management and the Department of General Services.

(2) Upon award of a construction contract and on a quarterly basis after that, the college board of trustees shall provide to the commission cash flow projections. The cash flow projections shall be adjusted as the project progresses and as significant changes are made. These projections form the basis of the Commission's request for the issuance of bonds to support the payment of the State's share.

#### D. Project Management.

(1) The disbursement of State matching funds by the Department of General Services shall be made in accordance with applicable State policies. The local share of a project shall be expended before any expenditure of the State share.

(2) During the construction period, the Commission and the Department of General Services shall jointly maintain records on project status, cash flow projections, and bond funds.

E. Detailed agency functions and responsibilities are outlined in the current edition of the Commission's Facility Manual for Community Colleges.

13B.07.05.00

**Title 13B MARYLAND HIGHER EDUCATION COMMISSION**

Subtitle 07 COMMUNITY COLLEGES

**Chapter 05 Space Allocation Guidelines**

**Authority: Education Article, Title 11 and Title 16, Annotated Code of Maryland**

13B.07.05.01

**.01 General Principles.**

A. This chapter provides guidelines for determining space needs that are eligible for capital funding by the State. The space allocation guidelines delineated in this chapter are to be used to compute suggested maximum allowances for a campus for each type of space in the National Higher Education General Information Survey (HEGIS) Space Classification System. These guidelines may not be used to design a specific space or facility. Any space architecturally designed, however, shall fall within the computed needs developed in Regulation .03 of this chapter.

B. These regulations are not fixed standards and may be subject to modifications when justified as reflected in the Maryland Higher Education Commission's Community College Facilities Manual. The regulations shall be used by the Department of Budget and Management, the Department of General Services, the Maryland Higher Education Commission, and the Board of Public Works in evaluating both long-range planning and individual construction projects.

C. Normally, projects shall be planned using a 10-year enrollment projection certified by the Secretary of Higher Education.

D. On-campus full-time day (8 a.m. to 5 p.m.) students and part-time day students shall be equated to full-time day equivalent (FTDE) students. This count, used in conjunction with space factors, shall be the major basis for determining space needs. Only students attending the campus for which space needs are being computed shall be counted.

E. The FTDE count for each college shall be certified by the Secretary.

F. On-campus daytime weekly student contact hours (WSCH) shall be used to compute classroom and laboratory space needs. The WSCH shall be certified by the Secretary of Higher Education. Except for remedial or other prerequisite courses, noncredit contact hours are not included in computing space, and only "on campus" hours shall be included.

G. Enrollment projections to be used by a college in applying these regulations should be consistent with the approved role and mission statement for that college. The enrollment projection should be that which is contained in the facilities master plan most recently endorsed by the Commission.

H. Office space is based on the count of full-time equivalent faculty, full-time administrators, full-time librarians, full-time staff, and student officers as certified to by the Secretary.

I. The space inventory to be used by a college in applying these regulations to determine eligibility for State funding is the total amount of on-campus space minus space contained in temporary

structures. Temporary structures are those with an anticipated useful life of less than 15 years or those that were not intended to occupy space on campus for more than 15 years from original construction.

J. The space inventory is recorded in terms of net assignable square feet (NASF). The space allowances computed under these guidelines are also recorded as NASF.

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**.02 Capital Guidelines.**

Space allocation guidelines for college campuses are as follows:

Room Use Category		Space Factor by Size of FTDE		
HEGIS Code	Space	Base	3000 & Under	3001 & Up
100	Classroom Facilities	WSCH1	1.50	1.11
110	Classroom			
200	Laboratory Facilities	WSCH2	7.00	5.83
210	Class Laboratory			
220	Open Laboratory	FTDE	4.20	4.20
300	Office	FTEF3	166.00	166.00
		FT Staff		
		Student Offices <sup>4</sup>		
320	Testing & Tutoring Centers	FTDE5	Core of 1,500 NASF and 0.5 NASF/FTDE in excess of 1,500 FTDE.	
400	Library			
410	Study/Seating	FTDE	6.25	6.25
420	Stack	BVE6	.10-	.10+
400— 455	Processing	Percent of 420 with minimum of 1,200 NASF <sup>7</sup>	.40	.40
500	Special Use			
520	Physical Education— Pool, Gym, and Fitness/Wellness Center	FTDE8	Core of 28,000 NASF (consisting of 14,000 for a gym, 8,000 for a pool, and 6,000 for a fitness center) and 10 NASF/FTDE in excess of 1,500 FTDE and 6,000 NASF of service space (consisting of 3,500 for lockers and 2,500 for storage).	
530	Audiovisual, Radio, TV	FTDE	Core of 1,600 NASF and 0.8 NASF/FTDE in excess of 1,500 FTDE up to 3,000 FTDE and 2 NASF/FTDE in excess of 3,000 FTDE.	
580	Greenhouse	Campus	Core of 1,000 NASF	
600	General Use			
610	Assembly	FTDE	Core of 12,000 NASF and 2 NASF/FTDE in excess of 1,500 FTDE.	
620	Exhibition	FTDE	Core of 1,500 NASF and 0.5 NASF/FTDE in excess of 1,500 FTDE.	
630	Food Facilities	PHC9	10.2	8.4

650	Lounge Facilities	PHC10	3.0	3.0
660	Merchandising	FTDE	Core of 1,600 NASF and 0.5 NASF/FTDE in excess of 1,500 FTDE.	
680	Meeting Space	FTDE	Core of 6,000 NASF	Core of 8,000 NASF
700	Support			
710	Data Processing, Telecomm	FTDE11	Core of 2,500 NASF for the first 4,000 FTDE and 0.75 NASF/FTDE beyond 4,000 FTDE.	
720— 745	Shops, Storage, Vehicle Storage, and Repair	Total Campus Allowance minus this category <sup>12</sup>	0.04	0.04
750	Central Service	FTDE	Core of 4,000 NASF for the first 4,000 FTDE and 1 NASF/FTDE beyond 4,000 FTDE.	
760	Hazardous Materials	Total Storage	2% of existing inventory in Room Use Categories 720—745.	
800	Health Care	FTDE	Core of 500 NASF and 0.2 NASF/FTDE in excess of 1,500 FTDE.	

<sup>1</sup>WSCH-Lecture. Weekly student contact hours for on-campus day students in credit courses and eligible noncredit courses where instruction is lecture.

<sup>2</sup>WSHC-Lab. Weekly student contact hours for on-campus day students in credit courses and eligible noncredit courses where instruction is lab.

<sup>3</sup>FTEF—Full-time equivalent faculty, including librarians, plus 25% of all part-time faculty.

<sup>4</sup>1,120 square feet maximum for student offices.

<sup>5</sup>FTDE—Full-time day equivalent is total credit hours taught on campus between 8 a.m. and 5 p.m. divided by 15 credit hours.

<sup>6</sup>BVE—Bound volume equivalent which is 20,000 BVE for the first 1,000 FTE and 1,000 BVE for every 100 FTE above 1,000.

<sup>7</sup>A minimum allowance is needed for cataloging, binding, and maintenance regardless of collection size.

<sup>8</sup>Minimum size of gym is 14,000 NASF for activity space, 8,000 NASF for pool, 6,000 NASF for fitness space, 3,500 NASF for lockers, and 2,500 NASF for storage.

<sup>9</sup>PHC—Planning headcount is 50% of FTDE for on-campus credit and eligible noncredit courses plus FTEF and FT Staff and includes space for seating, preparation, and storage.

<sup>10</sup>Allowance includes quiet, study, and building lounges.

<sup>11</sup>FTDE for on-campus credit courses and eligible noncredit courses.

<sup>12</sup>Allowance related to required service space on campus total square footage.

<sup>13</sup>Computed need in any larger institutional size category may not be less than the maximum amount for any smaller institutional size category.

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### **.03 Capital Guidelines Factor Development.**

A. The elements for computing the space factor used for determining space needs for classrooms and laboratories are the net assignable square feet per student station (NASF/SS), the number of hours in a 45-hour week the space shall be used (hours/week), and the percent of student occupancy of the room when space is in use. These elements are expressed in the formula: NASF/SS Space Factor = hours/week X percent of occupancy.

#### **B. 100—Classroom.**

(1) For the smaller colleges, the guideline was computed on the basis of the following formula:

- (a) Assume 18 NASF—average station size;
- (b) Assume 20 hours per week—target room utilization rate;
- (c) Assume 60 percent—expected seat occupancy rate;
- (d) 18 divided by (20 X 0.60) yields 1.5.

(2) For the large colleges, the following formula was used:

- (a) Assume 20 NASF—average station size;
- (b) Assume 27 hours per week—target room utilization rate;
- (c) Assume 66.7 percent—expected seat occupancy rate; and
- (d) 20 divided by (27 X .667) yields 1.11.

#### **C. 200—Laboratory.**

(1) For the smaller colleges, the guideline was computed on the basis of the following formula:

- (a) Assume 50 NASF—average station size for natural and social science labs;
- (b) Assume 115 NASF—average station size for technical and career labs;
- (c) Assume 80 percent of lab contact hours are generated in natural and social sciences labs, and 20 percent in technical and career labs;
- (d) Assume 15 hours per week—target room utilization rate;
- (e) Assume 60 percent—expected seat occupancy rate;
- (f) For natural and social sciences labs, 50 times 0.80 divided by (15 X 0.60) yields 4.45;
- (g) For technical and career labs, 115 times 0.20 divided by (15 X 0.60) yields 2.55; and
- (h) The sum of 4.45 and 2.55 is 7.0.

(2) For the larger colleges, the guideline was computed in the same manner except that the target room utilization rate was raised to 18 hours per week.

#### D. 300—Office.

(1) The allowance of 166.0 NASF per individual requiring office space is adopted to cover all space required for faculty offices, administrative offices, clerical offices, student offices (1,120 square feet maximum), library offices, file rooms, mimeograph rooms, vaults, conference room, waiting rooms, interview rooms, closets, private toilets, record rooms, and office supply rooms. Centralized duplicating or print shops are not included.

(2) 320—A core space of 1,500 NASF and .05 NASF/FTDE in excess of 1,500 FTDE.

#### E. 400—Study.

(1) This category includes library and learning resource centers. Seating station size is 25 NASF which, when multiplied by seating for 25 percent of the FTDE, produces a seating factor of 6.25 (25 X 0.25).

(2) The size of the stack space is determined by allowing 0.1 NASF per bound volume equivalent (BVE) with a library of 20,000 BVE recommended for the first 1,000 FTE and 1,000 BVE per 100 FTE after that, although no ceiling on volume count is mandatory.

(3) The processing and service spaces are determined as a group by taking 40 percent of the stack space. A minimum of 1,200 NASF is needed for service regardless of collection size.

(4) The total space for the library is found by adding the space computed for seating, stack, and service.

#### F. 500—Special Use.

(1) 520—Physical Education. A core of 28,000 NASF (consisting of 14,000 for a gym, 8,000 for a pool, and 6,000 for a fitness center) and 10 NASF/FTDE in excess of 1,500 FTDE and 6,000 NASF of service space (consisting of 3,500 for lockers and 2,500 for storage).

(2) 530—Audiovisual, Radio, TV. A core allowance of 1,600 NASF assumes that each campus will have space for audio/TV electronic distribution equipment racks and panels (600 NASF), equipment and materials storage and circulation area (600 NASF), and a maintenance workshop and technician area (400 NASF). The additional 0.8 NASF/FTDE in excess of 1,500 recognizes that larger campuses may require more space for specialized productions.

(3) 580—Greenhouse. Assumes that greenhouses supporting the instructional program in biology require a minimum amount of space regardless of the size of the college.

#### G. 600—General Use.

(1) 610—Assembly. A core of 12,000 NASF and 2 NASF/FTDE in excess of 1,500 FTDE.

(2) 620—Exhibition. A core space of 1,200 NASF is provided for the first 1,500 FTDE. Regardless of campus size, a minimum amount of space is provided for exhibition of materials, works of art, artifacts, etc. Additional space is provided for campuses larger than 1,500 FTDE in recognition of specialized program offerings and increased demand.

(3) 630—Food Facilities. This factor is based upon the potential number of users to be served, type of service to be used, number of turnovers, preparation methods, commuter implications, and storage. Space is to be provided for 50 percent of the FTDE students, FTE faculty, and FT staff. Allowance is for 15 NASF per seat for dining, 3 NASF per seat for serving, a turnover of 3:1 per meal, 70 percent of dining and serving allowance for campuses 3,000 FTDE and under, and 40 percent of dining and serving allowance for campuses 3,001 FTDE and over.

(4) 650—Lounge Facilities. This factor is based upon the potential numbers of users. Included are primary areas in any student center (game lounge, quiet lounge, study lounge as well as building lounges).

(5) 660—Merchandising. A core allowance is provided for basis space for storage display of textbooks and academic supplies and materials as well as sales space for a variety of student convenience and interest items. Space beyond 1,500 FTDE allows for increases in the size of student body growth. Storage and backspace requirements grow at a disproportionate rate because increases in the size of the college produce variety in program and instructional offerings that produce a variety in book titles required to support curricula.

(6) 680—Meeting Space. A core of 6,000 NASF for FTDE of 3,000 or less and a core of 8,000 NASF for FTDE 3,001 and above.

H. 700—Support.

(1) 710—Data Processing. Allows for average requirements for computer centers and necessary peripherals and processing space. Excluded from this space are instructional computing spaces which are within the HEGIS 200 category. Also, central control monitoring systems are excluded.

(2) 720—745 Shops, Storage, Vehicle Storage and Repair. Assumption is that the amount of building space on campus and the number of vehicles to be stored/maintained has a direct relationship to the amount of required service space.

(3) 760—Hazardous Materials. An allowance of 2 percent of the existing inventory in room use categories 720—745 is used to determine storage space requirement.

I. 800—Health Facilities. The factor provides a minimum space allocation as well as the opportunity for expansion at larger colleges. Space for infirmaries and health clinics only for students is included in this factor.

3B.07.05.04

#### **.04 Outdoor Facilities.**

A. Regular Parking. The allowance is 300 square feet per car and the number of spaces is based upon the following:

(1) 75 percent—full-time faculty;

(2) 75 percent—staff;

(3) 75 percent—full-time day equivalent for on-campus credit and eligible noncredit courses; and

(4) 2 percent—visitors (2 percent of total authorized spaces).

B. Handicapped Parking. The parking stall shall be 9 feet wide with a 4-foot wide pedestrian space between each other stall reserved for the handicapped. These spaces shall be in addition to those identified as regular parking. Total reserved spaces shall conform to the following:

<i>Total Parking Spaces on Lot</i>	<i>Required Minimum Number of Handicapped Accessible Spaces</i>
Up to 25	1
26—50	2
51—75	3
76—100	4
101—150	5
151—200	6
201—300	7
301—400	8
401—500	9
501—1,000	2 percent of total
over 1,000	20 + 1 for each 100 over 1,000

C. Outdoor Physical Education and Recreational Facilities. Outdoor physical education and recreational facilities shall be based upon 100 square feet per headcount day student and justified by program requirements with a minimum of the following, if justified:

(1) Six tennis courts;

(2) Two fields, with a total of 300,000 square feet, one of which may have a track consisting of six lanes with an eight-lane straight-away.

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#### **Administrative History**

Effective date: January 26, 1998 (25:2 Md. R. 77)

Regulation .01 amended effective April 15, 2002 (29:7 Md. R. 621)

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