

## Chapter 1

### General Provisions

**Section 1. Authority.** This Chapter is promulgated pursuant to Wyoming Statute 21-15-114(a)(xv).

**Section 2. Definitions.** As used in these rules and all project agreements entered into by the Department:

(a) “Adequate” means a building, room, or other educational space is both sufficient and appropriate, as those terms are defined in this section.

(b) “Anticipated Hard Bid” means the funding limit of the total amount of proposals or bids to achieve capital construction work or the Work, on and off-site, unless identified otherwise in the budget worksheet including prime bids, multiple prime bids, allowances, alternates and other costs of the Work.

(c) “Appropriate” means a building, room, or other educational space that has the necessary infrastructure, storage, fixtures, and critical adjacencies to be compatible with the delivery of the required educational program.

(d) “Bidding Contingency” means the funding amount identified by the Owner and design professionals within the Anticipated Hard Bid to accommodate market variances or estimating errors.

(e) “Budget Worksheet” means the total funding structure of State Funds for a School Facilities Division capital construction project. The worksheet represents all project funds available through the State Construction Department for a project.

(f) “Closed” means any educational building or facility that is not currently being used and is capable of being reopened.

(g) “Cohort Survival Calculation” means the rate of progression for each grade (K through 11) to the next grade (1 through 12) using the ten-year average for each grade progression.

(h) “Component Level Recommendations” means recommendations by the Commission to implement remedies to address educational building and facility condition by repairing or replacing components when it is determined by the Commission that it is not feasible for districts to do so solely with major maintenance funds.

(i) “Construction Contingency” means funding identified to address unanticipated or unknown costs identified subsequent to the proposal or bidding process to achieve the Work. Construction Contingency is not a bidding contingency.

(j) “Contractor” means any person who is a party to a contract with the Commission or a district to accomplish the Work of any Commission approved remedy.

(k) “Critical adjacency” refers to an educational, administrative, educational support, or facility support space within an educational building that must be located near another space in order to be functional as intended.

(l) “Department” means the State Construction Department.

(m) “Design Charrette” means an interactive and collaborative process where participants (school district, architects and others) work in a focused and sustained effort to develop the basis for a feasible building design that meets the educational, budgetary and schedule goals for the project.

(n) “Design Contingency” means funding identified to address unanticipated costs associated with services provided by design professionals.

(o) “Design Professional” means the architect or other professional contracted with the district to design a remedy.

(p) “District” means any school district established pursuant to the laws of Wyoming excluding community colleges and community college districts.

(q) “District-initiated” refers to any renovation, construction, replacement, repair or other improvement of or to any school building or facility that is not a State-initiated remedy or major maintenance included in the district’s facility plan. This includes, but is not limited to, a district’s decision to include in a State-initiated remedy any design features or components contrary to the recommendations of value engineering performed in accordance with the Commission’s Facility Design Standards and Guidelines unless waived by the Department or excepted by the Commission in accordance with Chapter 1 Section 10 of these Rules, in excess of the Commission’s Facility Design Standards and Guidelines unless excepted by the Commission in accordance with Chapter 1 Section 10 of these Rules, or that add square footage in excess of Square Footage Calculator whether through construction, renovation, or acquisition of additional square footage.

(r) “District-initiated element” means any component, design feature, or square footage that is district-initiated and occurs in conjunction with a State-initiated remedy.

(s) “District-initiated project” means any project that is district-initiated and occurs independent of a legislative appropriation or Commission funding.

(t) “Educational specifications or “Ed-specs” means those specifications used to define the programmatic, educational and functional goals of the educational facility.

(u) “Elementary school” means any school with a grade configuration of kindergarten through sixth grade, or any combination thereof.

(v) “Facility Condition Assessment” (FCA) means the systematic process of collecting measured data, or making observations relative to the physical condition of a building or facility or one or more of its components or group(s) of components and recording the results.

(w) “Facility Condition Index” (FCI) means a numerical rating or building condition score based on measured data or assessment of physical components or systems. The condition of a building is expressed as a ratio of the Cost to Repair Deficiencies, or “Deferred Maintenance” (DM) divided by the Current Replacement Value (CRV) of the building. The formula is:

$$FCI = \frac{\sum DM}{\sum CRV}$$

(x) “High school” means any school with a grade configuration of ninth or tenth grade through twelfth grade.

(y) “Informal Review” means the opportunity afforded a school district under W.S. 21-15-116(f) to consult with the Department regarding an action of the Department prior to filing a request for a contested case proceeding before the Commission.

(z) “Kick-off Meeting” means a meeting(s) between personnel of the Department and personnel of the district, in addition to such other persons as may be necessary to accomplish project planning.

(aa) “Leased Facilities” means any land, building or equipment or other capital asset that has been leased by or to a district.

(bb) “Major Maintenance” is a common reference term that means “Major building and facility repair and replacement” as that term is defined in W.S. § 21-15-109(a)(iii).

(cc) “Middle school” means any stand-alone school or campus with any grade configuration that includes both seventh and eighth grade, but does not include the full range of grades down to kindergarten or up to twelfth grade. Districts may use an alternative descriptor such as “junior high school.”

(dd) “Most Cost Effective Remedy” means the most cost effective method of remediation as that phrase is used in W.S. 21-15-117(b).

(ee) “Mothballed building or facility” is any district building or facility which is closed and not operational, has the potential to be re-opened, is not being replaced under a district’s facility plan approved by the Commission, is not determined surplus within the district’s facility plan, and is maintained in good condition, for a maximum of three (3) years without additional approval from the Commission. Mothball status can be renewed by Commission approval after the initial three (3) years.

(ff) “Nonstudent-related buildings and facilities” means any building or facility that is

either an “office building” or a “warehouse building,” as those terms are defined in W.S. 21-15-109(a)(iv) and (a)(viii).

(gg) “Payable-Leased Facilities” are those facilities which are used by the district to provide the approved educational programs as prescribed by W.S. 21-15-109(c)(i)(B). These facilities shall be included in the district’s gross square footage totals.

(hh) “Permanent Modular Building” means a pre-built, factory constructed and assembled educational building or facility that is transported in an assembled condition to the location on which the building or facility is to be situated that is placed on a permanent foundation, and that is expected to be used by the district for its designed lifetime.

(ii) “Primarily used” means more than fifty percent (50%) of a school building or facility is used in connection with educational programs, district administrative functions, or storage of equipment, materials, and other district property.

(jj) “Project Audit” means a contract compliance audit by an independent auditing expertise of project budgets and expenditures undertaken in accordance with W.S. 21-15-123(f)(v)(J).

(kk) “Project budget” means the amount of legislative funding allocated to a specific remedy. The project budget for any specific remedy shall be an amount determined by the Commission to be sufficient to fund the total project cost of the remedy. Funds allocated to a specific remedy remain State funds and are not an entitlement of any district.

(ll) “Rural school” means a school located outside the main metropolitan area in which the district is located and from which the district does not bus students into the metropolitan area for core instruction.

(mm) “Separate Account” means an individual account held by the district for depositing and expending major building and facility repair funds. These funds shall not be co-mingled with any other funds or accounts.

(nn) “State-initiated remedy” means any renovation, construction, replacement, repair, or other improvement of or to any school building or facility initiated by the legislature through an appropriation or the Commission through a funding decision, including major building and facility repair and replacement undertaken pursuant to a district’s facility plan. The elements and features of a state-initiated remedy are limited to those provided in the Commission’s Facility Design Standards and Guidelines, and the addition of any element or feature not included in those guidelines is not considered state-initiated.

(oo) “Sufficient” means that a building, room, or other educational space is of such a size that it has enough space to enable delivery of the required educational program.

(pp) “Surplus building” means a building that is not within the commission’s adequacy standards due to a renovation, construction, replacement, repair, or other improvement of or to any

school building or facility initiated by a school district, an approved construction or renovation project, or by changes in school population.

(qq) “Temporary building” and “modular building” are defined interchangeably with “portable building” as that term is defined in W.S. 21-15-109(a)(v).

(rr) “Total project cost” means all project costs, including but not limited to: land acquisition, site preparation, design, construction, contingencies, FF&E, special studies (e.g. traffic, lighting), surveys, environmental assessments, geotechnical investigations, demolition, commissioning, owner’s representative fees, testing and inspections, plan review, and building permit/occupancy fees.

(ss) “Uniform Adequacy Standards” means those standards approved by the Commission in accordance with W.S. § 21-15-115(a) for the adequacy of school buildings and facilities necessary for providing educational programs prescribed by law for the public schools.

(tt) “Work” means the achievement of the work of a project including equipment, material and labor specified in a construction agreement.

### **Section 3. Chair.**

(a) The Chair shall preside at all meetings of the Commission. The Chair shall appoint all committees and perform such duties as the statute, rule or the Commission specifies.

(b) In the absence of the Chair at any meeting of the Commission, the Vice-Chair shall serve as Acting Chair of the meeting. If both the Chair and Vice-Chair are absent or otherwise unable to preside over the meeting or perform a specified duty, the Chair shall designate a commissioner to serve as Acting Chair for the meeting or task.

### **Section 4. Secretary; Minutes; Books and Records.**

(a) The Administrator of the School Facilities Division shall function as Secretary to the Commission, and the Department shall administratively implement the Commission’s rules. The Secretary for the Commission shall conduct and care for all the correspondence of the Commission and keep and maintain the minutes of all the meetings of the Commission and the books and records of the Commission. The Secretary shall provide notice of the time and place of all meetings of the Commission, including an agenda of items to be discussed, to each Commissioner.

(b) All orders and final decisions of the Commission, the minutes of all its sessions, meetings and proceedings, and the Commission’s rules shall be kept by the Secretary for permanent public record and shall be open for public inspection at the office of the Department, listed on the Department’s website. The Secretary may certify to the correctness of any copies of such documents.

### **Section 5. Meetings.**

(a) The Commission shall meet at least quarterly and at other times as necessary to transact its business.

(i) At the last regular meeting of the calendar year, the Commission shall adopt by resolution a regular meeting schedule for the following year.

(ii) The Secretary may, in consultation with the Chairman, reschedule regular meetings as necessary by providing individual notice to each Commissioner and providing public notice in accordance with W.S. § 16-4-404.

(iii) The Chairman may call special meetings as necessary, in accordance with W.S. § 16-4-404(b).

(b) Meetings and hearings shall be separate functions.

#### **Section 6. Order of Business; Agendas.**

(a) An agenda shall be prepared by the Secretary and approved by the Chair. The agenda shall set forth the matters scheduled to come before the Commission at the meeting and indicate for each matter whether it requires action to be taken by the Commission at the meeting. Before each meeting of the Commission, the Secretary shall circulate to all Commissioners the agenda so prepared by the Secretary and approved by the Chair.

(b) Any Commission member may direct the Secretary to include an agenda item for the Commission's consideration.

(c) Other than for purposes of public comment, persons desiring to have a matter brought before the Commission shall make their requests through the Department. Department staff shall work with the Secretary and the persons making the request to determine how and when it is appropriate that the matter be presented to the Commission. The Secretary shall consult with the chairman of the Commission when making this determination.

#### **Section 7. Recusal.**

(a) A Commissioner shall recuse himself from all proceedings relating to a matter if he or she has a personal or private interest in the matter. The Commissioner shall recuse him or herself by serving a written or verbal notice of recusal upon the Chair, who shall notify all other Commissioners and any parties involved in the matter. On and after the date of recusal, the recused Commissioner shall not participate in any deliberations, decisions or other actions of the Commission relating to the matter.

(b) A recused Commissioner may attend hearings and other proceedings related to a recused matter as a member of the public. The Commissioner may also attend any Commission meeting at which topics relating to the matter arise and participate in the deliberations, decisions and other actions of the Commission on topics unrelated to the matter upon which recusal has

occurred.

**Section 8. Signing of Contracts.** Contracts, agreements, memoranda of understandings and other documents of the Commission may be signed by the Chair, or by a designee of the chair. The Secretary shall sign only those contracts, agreements, memoranda of understanding or other documents of the Commission for which the Commission has delegated its authority to the Secretary. The Secretary may further designate a member of the staff to sign on his or her behalf.

**Section 9. Public Records Practices.**

(a) All requests for public records from the Commission shall be in writing and processed according to this Section. For purposes of the Wyoming Public Records Act, the Secretary is the custodian of all public records of the Commission.

(b) The Commission incorporates by reference the following uniform rule:

(i) Chapter 2 – Uniform Procedures, Fees, Costs, and Charges for Inspecting, Copying, and Producing Public Records, adopted by the Department of Administration and Information and effective on September 6, 2016, found at: <https://rules.wyo.gov>;

(ii) The Commission has determined that incorporation of the full text in this rule would be cumbersome or inefficient given the length or nature of the rule;

(iii) The incorporation by reference does not include any later amendments or edition of the incorporated matter beyond the applicable date identified in subsection (b)(i); and

(iv) The incorporated rule is maintained at the Department's Cheyenne office and is available for public inspection and copying at cost at the same location.

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(jj) “Project Audit” means a contract compliance audit by an independent auditing expertise of project budgets and expenditures undertaken in accordance with W.S. 21-15-123(f)(v)(J).

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(oo) “Sufficient” means that a building, room, or other educational space is of such a size that it has enough space to enable delivery of the required educational program.

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(qq) “Temporary building” and “modular building” are defined interchangeably with “portable building” as that term is defined in W.S. 21-15-109(a)(v).

(rr) “Total project cost” means all project costs, including but not limited to: land acquisition, site preparation, design, construction, contingencies, FF&E, special studies (e.g. traffic, lighting), surveys, environmental assessments, geotechnical investigations, demolition, commissioning, owner’s representative fees, testing and inspections, plan review, and building permit/occupancy fees.

(ss) “Uniform Adequacy Standards” means those standards approved by the Commission in accordance with W.S. § 21-15-115(a) for the adequacy of school buildings and facilities necessary for providing educational programs prescribed by law for the public schools.

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### **Section 3. Chair.**

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(i) At the last regular meeting of the calendar year, the Commission shall adopt by resolution a regular meeting schedule for the following year.

(ii) The Secretary may, in consultation with the Chairman, reschedule regular meetings as necessary by providing individual notice to each Commissioner and providing public notice in accordance with W.S. § 16-4-404.

(iii) The Chairman may call special meetings as necessary, in accordance with W.S. § 16-4-404(b).

(b) Meetings and hearings shall be separate functions.

#### **Section 6. Order of Business; Agendas.**

(a) An agenda shall be prepared by the Secretary and approved by the Chair. The agenda shall set forth the matters scheduled to come before the Commission at the meeting and indicate for each matter whether it requires action to be taken by the Commission at the meeting. Before each meeting of the Commission, the Secretary shall circulate to all Commissioners the agenda so prepared by the Secretary and approved by the Chair.

(b) Any Commission member may direct the Secretary to include an agenda item for the Commission's consideration.

(c) Other than for purposes of public comment, persons desiring to have a matter brought before the Commission shall make their requests through the Department. Department staff shall work with the Secretary and the persons making the request to determine how and when it is appropriate that the matter be presented to the Commission. The Secretary shall consult with the chairman of the Commission when making this determination.

#### **Section 7. Recusal.**

(a) A Commissioner shall recuse himself from all proceedings relating to a matter if he or she has a personal or private interest in the matter. The Commissioner shall recuse him or herself by serving a written or verbal notice of recusal upon the Chair, who shall notify all other Commissioners and any parties involved in the matter. On and after the date of recusal, the recused Commissioner shall not participate in any deliberations, decisions or other actions of the Commission relating to the matter.

(b) A recused Commissioner may attend hearings and other proceedings related to a recused matter as a member of the public. The Commissioner may also attend any Commission meeting at which topics relating to the matter arise and participate in the deliberations, decisions and other actions of the Commission on topics unrelated to the matter upon which recusal has

occurred.

**Section 8. Signing of Contracts.** Contracts, agreements, memoranda of understandings and other documents of the Commission may be signed by the Chair, or by a designee of the chair. The Secretary shall sign only those contracts, agreements, memoranda of understanding or other documents of the Commission for which the Commission has delegated its authority to the Secretary. The Secretary may further designate a member of the staff to sign on his or her behalf.

**Section 9. Public Records Practices.**

(a) All requests for public records from the Commission shall be in writing and processed according to this Section. For purposes of the Wyoming Public Records Act, the Secretary is the custodian of all public records of the Commission.

(b) The Commission incorporates by reference the following uniform rule:

(i) Chapter 2 – Uniform Procedures, Fees, Costs, and Charges for Inspecting, Copying, and Producing Public Records, adopted by the Department of Administration and Information and effective on September 6, 2016, found at: <https://rules.wyo.gov>;

(ii) The Commission has determined that incorporation of the full text in this rule would be cumbersome or inefficient given the length or nature of the rule;

(iii) The incorporation by reference does not include any later amendments or edition of the incorporated matter beyond the applicable date identified in subsection (b)(i); and

(iv) The incorporated rule is maintained at the Department’s Cheyenne office and is available for public inspection and copying at cost at the same location.

## Chapter 2

### Rules of Practice and Procedure for Contested Case Proceedings; Exception Requests

**Section 1. Authority.** This Chapter is promulgated by the Commission under the authority of Wyoming Statutes 16-3-102(a)(i), 16-3-102(d), 21-15-114(a)(xv), 21-15-116(e) and 21-15-116(f).

**Section 2. Application of Rules.** This Chapter shall apply to district requests for exceptions from the Commission, contested case proceedings brought before the Commission, and informal reviews that are brought before the Department by a district as authorized by Wyoming Statutes and these Rules ~~brought before the Department by a district.~~

#### Section 3. Exception Requests.

- (a) The Commission may grant exceptions on a case-by-case basis to the following:
- (i) Building capacity based on a most cost effective remedy study;
  - (ii) Budget recommendations;
  - (iii) Allowable square footage calculator;
  - (iv) A determination of the Department rejecting a request to use a non-Commission-approved contract as described in Chapter 9 Section 7(a)(ii);
  - (v) A determination of the Department rejecting a request for a value engineering waiver as described in Chapter 9 Section 8(a)(i); ~~and~~
  - (vi) Specific requirements of the Design Standards and Guidelines; and
  - (vii) A building's CRV, for use in the calculation of its FCI, as those terms are defined in Chapter 1 § 2(w). Upon request of a district, the Commission may direct the Department to calculate a building's CRV using the maximum allowable square footage based on the higher of the District's current or eight-year projected enrollment.
- (b) A district making an exception request shall include documentation explaining the exception request. Such documentation should include, at a minimum:
- (i) The precise nature of the exception requested;
  - (ii) The justification for the exception request; and
  - (iii) Necessary supporting documentation as identified by the Department.
- (c) The Department shall create a thorough written record supporting the granting or denial of every exception request. Exception requests shall be initially presented to the

Department for its review. The Department shall then present the request to the Commission with a recommendation at the next meeting for which the submission of additional Commission matters is timely.

(d) The Commission shall at a minimum consider the reasons why the exception is being requested, the nature of the request, any cost implications of the request, whether granting the request comports with the Commission's statutory duties and authority, and whether alternative means exist to accomplish the purposes of the request.

#### **Section 4. Informal Review Proceedings.**

(a) When challenging a decision of the Department, or a most cost-effective remedy recommendation as set forth in Chapter 8 § 5 of these Rules, Districts shall request an informal review before the Department Director before pursuing a contested case proceeding review. Challenges to the Department's recommended most cost-effective remedy shall be in accordance with this Section of this Chapter and Chapter 8 § 5. The time period for filing a formal request shall begin when the district receives a decision from the Department Director with respect to the informal review.

(b) A district requesting an informal review shall do so, in writing, to the Director of the Department within thirty (30) days of the date of the administrative decision at issue. The Department shall acknowledge receipt of such requests immediately. The request shall contain:

- (i) The decision of the Department the district would like reviewed;
- (ii) An explanation of why the decision should be reviewed;
- (iii) Any additional facts the district would like to be considered; and
- (iv) The legal authority upon which it is believed a decision was made in error.

(c) The Department may reject any request that lacks any of the required elements listed under Subsection 3(b) of this chapterSection. Such rejection does not constitute a final administrative decision of the Department and is not a prejudicial decision with respect to the district's right to re-file its request for informal review.

(d) Within a reasonable time, tThe Director shall issue a written decision, in consultation with the Department's advising attorneys, laying forth the factual and legal basis for his or her decision.

(e) If, following the Department's review, the district is still unsatisfied with the actions of the Department, it may file a request for a contested case proceeding hearing before the Commission, except in the case of a recommended most cost-effective remedy.

#### **Section 5. Contested Case Proceedings.**



(a) Applicability. This Section shall apply to requests for a contested case proceeding as provided in § 4(e) of this Chapter. This Section shall not apply to challenges to the Department's recommended most cost-effective remedy, which shall be conducted in accordance with Chapter 8 § 5.

(b) A district aggrieved by a final administrative action taken by the Department after an informal review conducted under Section 43 of this chapter may file a timely request for a contested case proceeding within forty-five (45) days of the date of the final administrative decision at issue, or of the date of mailing of the final administrative decision as evidenced by a postmark, whichever is later. The request shall be in accordance with the provisions contained in this Section.

(bc) To initiate a contested case proceeding, a district shall prepare and file with the Commission a request which includes the following:

(i) The name, telephone number, email, and mailing address of the district and the same information for the representing attorney, if applicable;

(ii) A statement, in ordinary and concise language, of the facts and of the errors alleged to have been committed and issues upon which the request is based, including particular references to statutory sections, contract provisions or rules, regulations, policies, and orders involved;

(iii) A copy of the Director's decision and relevant material which relates to the decision at issue;

(iv) The specific relief sought; and

(v) The signature of the district and the representing attorney, if applicable.

(ed) The request shall be served on the Commission and other necessary parties. Service shall be made to the Wyoming School Facilities Commission, care of the Department, at the location listed on the Department's website. Service can be made in person, by mail, ~~or received by facsimile, 307-777-8711, or email at [scd@wyo.gov](mailto:scd@wyo.gov)~~ during regular business hours. Any ~~facsimile email~~ received after regular business hours will be treated as received during the regular business hours of the next working day. The Department shall acknowledge receipt of such requests immediately.

(de) Contested case proceedings before the Commission shall be limited to the issues the district identified during the Department's informal review.

(f) The Commission shall issue its written decision within a reasonable time.

~~(e) The request shall be filed with the Commission within forty five (45) days of the date of the final administrative decision at issue, or of the date of mailing of the final administrative decision as evidenced by a postmark, whichever is later.~~

**Section 6. Incorporation by Reference.** The Commission incorporates by reference the following uniform rule:

(a) Chapter 2 – Contested Case Proceedings adopted by the Office of Administrative Hearings and effective on July 20, 2017, found at <https://rules.wyo.gov>;

(i) The Commission has determined that incorporation of the full text in this rule would be cumbersome or inefficient given the length or nature of the rule;

(ii) The incorporation by reference does not include any later amendments or edition of the incorporated matter beyond the applicable date identified in subsection (a) of this section; and

(iii) The incorporated rule is maintained at the Department office and is available for public inspection and copying at cost at the same location.

**Section 7. Final Decision.** At the request of the Commission, the hearing officer shall make a recommended decision to the Commission. The Commission shall issue the final decision, which shall constitute final agency action.

## Chapter 2

### Rules of Practice and Procedure for Contested Case Proceedings; Exception Requests

**Section 1. Authority.** This Chapter is promulgated by the Commission under the authority of Wyoming Statutes 16-3-102(a)(i), 16-3-102(d), 21-15-114(a)(xv), 21-15-116(e) and 21-15-116(f).

**Section 2. Application of Rules.** This Chapter shall apply to district requests for exceptions from the Commission, contested case proceedings brought before the Commission, and informal reviews **that are brought before the Department by a district as** authorized by Wyoming Statutes and these Rules.

#### **Section 3. Exception Requests.**

- (a) The Commission may grant exceptions on a case-by-case basis to the following:
- (i) Building capacity based on a most cost effective remedy study;
  - (ii) Budget recommendations;
  - (iii) Allowable square footage calculator;
  - (iv) A determination of the Department rejecting a request to use a non-Commission-approved contract as described in Chapter 9 Section 7(a)(ii);
  - (v) A determination of the Department rejecting a request for a value engineering waiver as described in Chapter 9 Section 8(a)(i);
  - (vi) Specific requirements of the Design Standards and Guidelines; **and**
  - (vii) **A building's CRV, for use in the calculation of its FCI, as those terms are defined in Chapter 1 § 2(w). Upon request of a district, the Commission may direct the Department to calculate a building's CRV using the maximum allowable square footage based on the higher of the District's current or eight-year projected enrollment.**
- (b) A district making an exception request shall include documentation explaining the exception request. Such documentation should include, at a minimum:
- (i) The precise nature of the exception requested;
  - (ii) The justification for the exception request; and
  - (iii) Necessary supporting documentation as identified by the Department.
- (c) The Department shall create a thorough written record supporting the granting or denial of every exception request. Exception requests shall be initially presented to the

Department for its review. The Department shall then present the request to the Commission with a recommendation at the next meeting for which the submission of additional Commission matters is timely.

(d) The Commission shall at a minimum consider the reasons why the exception is being requested, the nature of the request, any cost implications of the request, whether granting the request comports with the Commission's statutory duties and authority, and whether alternative means exist to accomplish the purposes of the request.

#### **Section 4. Informal Review Proceedings.**

(a) When challenging a decision of the Department, or a most cost-effective remedy recommendation as set forth in Chapter 8 § 5 of these Rules, Districts shall request an informal review before the Department Director before pursuing a contested case proceeding. Challenges to the Department's recommended most cost-effective remedy shall be in accordance with this Section of this Chapter and Chapter 8 § 5.

(b) A district requesting an informal review shall do so, in writing, to the Director of the Department within thirty (30) days of the date of the administrative decision at issue. **The Department shall acknowledge receipt of such requests immediately.** The request shall contain:

- (i) The decision of the Department the district would like reviewed;
- (ii) An explanation of why the decision should be reviewed;
- (iii) Any additional facts the district would like to be considered; and
- (iv) The legal authority upon which it is believed a decision was made in error.

(c) The Department may reject any request that lacks any of the required elements listed under Subsection (b) of this Section. Such rejection does not constitute a final administrative decision of the Department and is not a prejudicial decision with respect to the district's right to re-file its request for informal review.

(d) **Within a reasonable time,** the Director shall issue a written decision, in consultation with the Department's advising attorneys, laying forth the factual and legal basis for his or her decision.

(e) If, following the Department's review, the district is still unsatisfied with the actions of the Department, it may file a request for a contested case proceeding ~~hearing~~ before the Commission, except in the case of a recommended most cost-effective remedy.

#### **Section 5. Contested Case Proceedings.**

(a) Applicability. This Section shall apply to requests for a contested case proceeding as provided in § 4(e) of this Chapter. This Section shall not apply to challenges to the

Department's recommended most cost-effective remedy, which shall be conducted in accordance with Chapter 8 § 5.

(b) A district aggrieved by a final administrative action taken by the Department after an informal review conducted under Section 4 of this chapter may file a ~~timely~~ request for a contested case proceeding within forty-five (45) days of the date of the final administrative decision at issue, or of the date of mailing of the final administrative decision as evidenced by a postmark, whichever is later. The request shall be in accordance with the provisions contained in this Section.

(c) To initiate a contested case proceeding, a district shall prepare and file with the Commission a request which includes the following:

(i) The name, telephone number, email, and mailing address of the district and the same information for the representing attorney, if applicable;

(ii) A statement, in ordinary and concise language, of the facts and of the errors alleged to have been committed and issues upon which the request is based, including particular references to statutory sections, contract provisions or rules, regulations, policies, and orders involved;

(iii) A copy of the Director's decision and relevant material which relates to the decision at issue;

(iv) The specific relief sought; and

(v) The signature of the district and the representing attorney, if applicable.

(d) The request shall be served on the Commission and other necessary parties. Service shall be made to the Wyoming School Facilities Commission, care of the Department, at the location listed on the Department's website. Service can be made in person, by mail, or email at [scd@wyo.gov](mailto:scd@wyo.gov) during regular business hours. Any email received after regular business hours will be treated as received during the regular business hours of the next working day. **The Department shall acknowledge receipt of such requests immediately.**

(e) Contested case proceedings before the Commission shall be limited to the issues the district identified during the Department's informal review.

**(f) The Commission shall issue its written decision within a reasonable time.**

**Section 6. Incorporation by Reference.** The Commission incorporates by reference the following uniform rule:

(a) Chapter 2 – Contested Case Proceedings adopted by the Office of Administrative Hearings and effective on July 20, 2017, found at <https://rules.wyo.gov>;

(i) The Commission has determined that incorporation of the full text in this rule would be cumbersome or inefficient given the length or nature of the rule;

(ii) The incorporation by reference does not include any later amendments or edition of the incorporated matter beyond the applicable date identified in subsection (a) of this section; and

(iii) The incorporated rule is maintained at the Department office and is available for public inspection and copying at cost at the same location.

**Section 7. Final Decision.** At the request of the Commission, the hearing officer shall make a recommended decision to the Commission. The Commission shall issue the final decision, which shall constitute final agency action.

## Chapter 3

### Uniform Adequacy Standards

**Section 1. Authority.** This Chapter is promulgated pursuant to Wyoming Statutes 21-15-114(a)(xv), (ix) and 21-15-115.

**Section 2. Applicability.** This Chapter applies to all buildings and facilities subject to the Commission's rules and regulations. The Wyoming statewide adequacy standards establish uniform statewide standards for the adequacy of school buildings and facilities necessary for providing educational programs prescribed by law for the public schools.

**Section 3. Safety of the Educational Environment.** School buildings shall be in compliance with federal, state and local building and fire codes and laws that are applicable to the particular building. Code compliance includes the completion of system improvements or site improvements that are mandated in writing by an authority having jurisdiction for the continued use of a school building or facility. School buildings shall comply with all lawful environmental regulations promulgated by the Wyoming Department of Environmental Quality, the Wyoming Environmental Quality Council, the federal Environmental Protection Agency, and any other governmental entity with jurisdiction over the building. An existing school building may be deemed adequate with respect to this provision if it complies with the International Existing Building Code.

#### **Section 4. Building Site Requirements.**

(a) Size requirements. For schools that intend to organize and operate more than one of the following school types on a single site, the higher of the site sizes serves as the applicable requirement. Sites larger than those in the following requirements are permissible but exceed these adequacy standards. If an alternative school shares a site with another school, the alternative school students shall contribute toward the site size calculation for the combined school site.

(i) For elementary schools, an adequate site size is up to four (4) acres, plus an additional acre for each one hundred (100) students.

(ii) For middle schools, an adequate site size is up to ten (10) acres, plus an additional acre for each one hundred (100) students.

(iii) For senior high schools, an adequate site size is up to twenty (20) acres, plus an additional acre for each one hundred (100) students.

(b) Many schools pre-date the Commission's authority to promulgate adequacy standards. Existing school sites smaller than the minimum size sites in subsection (a) of this section that pre-date the original adoption of these standards are deemed adequate with respect to this subsection unless the Commission determines otherwise.

(c) Sites shall:

- (i) Have play areas that are relatively flat and level;
- (ii) Have a playground(s) for grades K-6 accessible to students;
- (iii) Have access to parking for staff, students, and visitors that enables the school to deliver the required statewide educational program;
- (iv) Have separate areas for bus loading and unloading and student pickup and dropoff;
- (v) Be accessible to emergency vehicles;
- (vi) Have positive water drainage away from the building such that runoff does not undermine the structural integrity of the school buildings located on the site or create flooding, ponding or erosion resulting in a threat to health, safety or welfare; and
- (vii) Have exterior lighting at entrance(s), parking area(s), bus loading and unloading area(s), and student pickup and dropoff area(s).

**Section 5. Building Performance Standards.** A building shall:

- (a) Have an FCI score between 0.0 and 0.605;
- (b) Have exterior finishes that repel wind, snow, ice, and water intrusion;
- (c) Have roofing with positive water drainage;
- (d) Be structurally sound. A school building shall be considered structurally sound and safe if the building presents no imminent danger or major visible signs of decay or distress;
- (e) Be deemed adequate with respect to this subsection if the building systems are capable of maintaining an acceptable level of room comfort as determined by the Classroom Temperature Psychometric Chart adopted by the Commission and effective on August 27, 2020; and
- (f) Utilize one (1) or more of the following energy efficiency features:
  - (i) Energy-efficient lighting;
  - (ii) Light level control;
  - (iii) Occupancy sensors;
  - (iv) Multiple pane windows; and
  - (v) HVAC setback control.

**Section 6. Special Needs Students.** School buildings and facilities shall be deemed adequate with regard to this section if the building or facility meets the special needs of



students enrolled in the school as identified in their individualized education plans. If a special needs student enrolls in a district and the educational buildings and facilities that correspond to that student's needs are not adequate for the education and use of that student, the district shall notify the Department. The Department shall work with the Commission to develop a remedy to comply with the student's individualized education plan.

**Section 7. Building and Facility Accessibility.** School buildings and facilities shall be deemed adequate with regard to this section if the authority having jurisdiction deems the building or facility to be in compliance with relevant accessibility standards, including ~~The Department shall assess existing educational buildings and facilities with respect to accessibility and special needs requirements. The Department shall deem any building or facility that complies with local accessibility codes, and is capable of complying with the Americans with Disabilities Act of 1990 and the Americans with Disabilities Act Accessibility Guidelines as being adequate with respect to accessibility.~~

**Section 8. Adequacy of Educational Space for Required Programs.**  
Educational buildings shall provide adequate educational space. Educational space shall be deemed adequate if a district is able to provide the educational programs required by Wyoming Statute § 21-1-101. If a district board of trustees makes a finding that the district is unable to provide the required programs because its educational space is inadequate, the district superintendent shall immediately notify the Department in writing and provide a detailed report explaining how the current space is not adequate for the delivery of the required educational programming. The report shall include elements necessary to evaluate the impact that the identified deficiency poses to the provision of the required educational program, including but not limited to objective and measurable impacts on students and expected actions necessary to mitigate that impact such as aggregate student performance data, specific known deficits with respect to the Commission's Uniform Adequacy Standards, any known national standards relevant to the claimed deficiency, and any known comparables with school buildings and facilities located elsewhere in the district or State. In the event the Department receives such a report, it shall make recommendations to the Commission evaluating the deficiency and suggesting remedies to alleviate the situation. The Department may satisfy its obligation under this section by utilizing the Facility Condition Assessment of the adequacy of existing school buildings and facilities and the most recent school capacity information available to the Department in developing its recommendation to the Commission. Based upon the district's report and the Department's recommendations, the Commission shall determine whether a remedy is necessary. If the Commission determines a remedy is necessary, it shall direct the Department to perform a most cost-effective remedy study in accordance with Chapter 8 § 6(b)(iii) of these Rules.

(a) Instructional spaces shall be sufficient for the required educational programs. Temporary educational space shall not be considered in evaluating Subsections (b) through (e) of this Section.

(b) Elementary school buildings shall provide the following educational spaces:

(i) General classrooms.

(ii) Space for specific curriculum. Buildings shall have space adequate to deliver the required educational program for the following subjects at the elementary school level, whether in general classrooms or specialized spaces:

- (A) Art;
- (B) Music;
- (C) Science; and

(D) Other parts of the required state educational program necessitating specialized instructional space.

(ii) Physical education spaces. Physical education space shall include:

- (A) A gymnasium or multipurpose space; and
- (B) A playfield and playground.

(c) Middle school and high school buildings shall provide the following types of educational spaces:

(i) General classrooms;

(ii) Science classrooms. Science classrooms shall:

(A) Have adequate lab space to deliver the required educational program;

(B) Have adequate infrastructure to support the equipment necessary to deliver the required educational program; and

(C) Be equipped with code required safety equipment.

(iii) Fine and performing arts spaces. Fine and performing art spaces shall include adequate space capable of being used to deliver the required Fine and Performing Arts Standards.

(iv) Career and technical education (CTE) space. Middle and high schools shall have adequate space to deliver the required CTE standards.

(d) Middle schools shall provide or have access to sufficient facilities capable of delivering the required physical education standards:

(i) A gymnasium with a basic scoreboard capable of tracking score, time, and period;

(ii) A playfield. Standard playfields are natural seed or sod with an automatic irrigation system. Districts may opt for alternative surfaces, such as turf, but alternative surfaces

exceed these adequacy standards unless the Commission approves the use of an artificial surface based on a lifecycle cost analysis comparing the cost of maintaining turf and a natural seed or sod surface; and

(iii) Locker rooms are not mandatory, but, when present, may include the following items without exceeding these adequacy standards:

- (A) Lockers and benches;
- (B) Shower facilities; and
- (C) Restroom facilities.

(e) High schools shall provide or have access to sufficient facilities capable of delivering the required physical education standards:

(i) A gymnasium with a basic scoreboard capable of tracking score, time, and period;

(ii) A soccer or football field; and

(A) Standard soccer or football fields are natural seed or sod with an automatic irrigation system. Districts may opt for alternative surfaces, such as turf, but alternative surfaces exceed these adequacy standards unless the Commission approves the use of an artificial surface based on a lifecycle cost analysis comparing the cost of maintaining turf and a natural seed or sod surface;

(B) The field may have football goal posts and/or fixed soccer goals;

(C) A basic scoreboard capable of tracking score, time, and period; and

(D) Additional features such as bleachers, upgraded scoreboards, concession stands, and field houses are allowed but exceed these adequacy standards.

(iii) Track and field facilities;

(A) High schools designated 3A and 4A in track and field may have up to eight (8) lanes with running surface width of thirty feet (30');

(B) High schools designated 1A and 2A in track and field may have up to six (6) lanes with running surface width of twenty-three feet (23');

(C) Allowable surfaces include synthetic impermeable textured surfaces, dirt, cinder, or asphalt;

(D) One of the "D" areas of the track infield may have a surface matching the athletic track; and

(E) Facilities to conduct field events are not mandatory, but, when present, may include the items listed in this subparagraph without exceeding these adequacy standards. To the extent a district opts to include field event facilities, those facilities should be located in an appropriate area on the available site, use appropriate surfaces for the intended use, and be constructed consistent with National High School Field Standards. Districts may build facilities in excess of those allowable under this subparagraph, however those facilities exceed these adequacy standards. The allowable facilities include one (1) of each of the following:

- (I) Two-way long jump;
- (II) Triple jump runway with a landing pit at each end;
- (III) Shot put pad;
- (IV) Discus pad with cage;
- (V) Pole vault runway and/or vaulting box;
- (VI) Landing area; and
- (VII) High jump approach and landing area.

(iv) Locker rooms are not mandatory, but, when present, may include the following items without exceeding these adequacy standards:

- (A) Lockers and benches;
- (B) Shower facilities; and
- (C) Restroom facilities.

(f) All school buildings shall provide or have access to infrastructure, fixtures, and storage necessary to deliver the required educational program. “Infrastructure” does not include furniture or other furnishings.

(i) Educational spaces shall have the infrastructure and fixtures necessary for the normal activities of the required educational programs offered in the room and appropriate storage for classroom materials or access to appropriate storage.

(ii) Administrative, educational support, and facility support spaces in educational buildings shall have the minimum infrastructure and fixtures required for the necessary functions performed within. The following spaces, if present, should have the minimum infrastructure and fixtures needed to perform their necessary functions:

- (A) Administrative offices;
- (B) Student health, counseling and educational support space for the delivery of student health, counseling, and testing programs. The student health or nurse’s suite may have space to isolate sick students. It shall include secure storage for records, medications,

and supplies, and a working communications system. The student health or nurse’s suite shall have a connected accessible restroom;

(C) Faculty workspace or teachers’ lounge, which may have more than one function, and may include a break area with a kitchenette;

(D) Network distribution space, which shall be accessible, securable, well-ventilated, temperature-controlled to accommodate routers, switches, servers and other devices to support school technology operational needs;

(E) Technology support space(s), which shall be sufficient to store and/or service user devices;

(F) Library, media, and research center, which shall have internet connectivity and fixtures, equipment, technology, and other resources necessary to provide the statewide educational program;

(G) Maintenance or janitorial space, which may include janitorial sinks;

(H) Assembly space, circulation space, and entry vestibules; and

(I) Enough space, equipment, and storage necessary to provide regular meals to students during the school day.

(g) School buildings shall have plumbing fixtures in the minimum number as shown below in the chart adapted from the 2018 International Building Code.

Water Closets		Lavatories	
Male	Female	Male	Female
1 per 50		1 per 50	

(h) Alternate delivery methods. Notwithstanding Section 7(b)-(g) of this chapter, if a school district chooses to use an alternate delivery method for instruction, any space used for the alternate method shall be considered adequate so long as the district can deliver the required state educational program.

(i) For schools that intend to organize and operate more than one of the preceding school types on a single site or within a single building, each portion of the school shall meet the minimum standards for the grade levels served.

(j) Rural schools. Notwithstanding Section 7(b)-(f) of this chapter, rural schools are not required to have any of the spaces identified above provided that they have sufficient general classrooms.

**Section 9. Capacity and Square Footage Requirements.**

(a) Because the Commission has determined that incorporation of the full text of its methodologies would be cumbersome or inefficient, the following methodologies are incorporated by reference in these Commission rules.

(i) Enrollment Projection Methodology adopted by the Commission and effective on August 27, 2020;

(ii) Capacity Calculation Methodology, adopted by the Commission and effective on August 27, 2020; and

(iii) Maximum Allowable Educational Building Square Footage Methodology, adopted by the Commission and effective on August 27, 2020.

(b) The incorporation by reference does not include any later amendments or editions of the incorporated matter beyond the applicable date identified in subsection (b) of this section. All incorporated methodologies may be viewed free of charge at the Commission's website (<https://stateconstruction.wyo.gov/school-facilities/commission/#h.pbenv01wD6NZO>~~https://stateconstruction.wyo.gov/school-facilities/school-facilities-commission/sfc-documents~~) and are maintained at the State Construction Department at 700 West 21st Street in Cheyenne, WY, where they are available for public inspection and copying, at cost.

(c) A district-initiated project or element exceeds these adequacy standards if:

(i) It results in square footage in excess of the amount calculated under paragraph (a)(iii) of this section;

(ii) It increases the capacity of a building or facility which had a pre-project capacity score of less than one hundred percent (100%) as calculated under paragraph (a)(ii) of this section; or

(iii) The project results in a ratio of district non-educational to educational square footage, as calculated in W.S. § 21-15-109(c)(vii)(A), that exceeds twenty-one to seventy-nine (21:79).

**Section 10. Technological Capacity Criteria.** Any school building or facility capable of being utilized to provide the required educational program under the state education technology plan is deemed adequate with respect to this section. An educational building or facility shall have technology infrastructure to support all aspects of the educational, operational, and administrative processes, with access to internet connectivity and telecommunications services.

**Section 11. Adequacy Standards for Alternative Schools and Charter Schools.**

(a) Net educational space, at minimum, shall equal sixty-seven (67) sq. ft. per student. Because of the diversity of teaching strategies and the selective use of instructional areas, no designated type or size of space usage shall be mandatory, however the district must have access to sufficient space to deliver the required educational program.

(b) For alternative schools and charter schools on an independent site, the educational facilities shall comply with the following provisions in this Chapter: §§ 3; 4(c)(iii), (iv), (vi), (vii); 5; 6; 7; 9; and 10.

**Section 12. Site Security.** Security features included in the Facility Design Guidelines do not exceed these adequacy standards. School buildings shall have:

- (a) The following locking systems and hardware:
  - (i) Locks on the inside of classroom doors;
  - (ii) Exterior door locks; and
  - (iii) Door keying systems;
- (b) The following access control features:
  - (i) A single point of entry for visitors;
  - (ii) A secured vestibule;
  - (iii) Main entry control systems; and
  - (iv) A visitor management system;
- (c) The following communications systems:
  - (i) Two-way communication; and
  - (ii) Mass notification systems;
- (d) The following site and perimeter features:
  - (i) Site landscaping;
  - (ii) Site vehicle barricades;
  - (iii) A secure site perimeter to protect students from hazards and to discourage unauthorized access to the campus;
  - (iv) Clearly marked loading, unloading, drop-off zones, and fire zones;
  - (v) Security signage; and
  - (vi) Site lighting;
- (e) Video surveillance at the following locations, with recording capability in place:

- (i) Main entry and other building entrances, with both front and back views of approach; and
- (ii) Key exterior and interior areas, including but not limited to:
  - (A) The area outside restrooms, locker rooms, counseling offices, and administrative offices,
  - (B) Bus drop-off and pick up areas;
  - (C) Stairwells;
  - (D) Main hallways;
  - (E) Cafeteria;
  - (F) The entrance to gymnasium and athletic fields;
  - (G) Parking lots; and
  - (H) Library;
- (f) The following egress and refuge features:
  - (i) Classroom doors constructed of durable material; and
  - (ii) The ability to lockdown the following areas:
    - (A) All classrooms;
    - (B) Main entrances;
    - (C) Library; and
    - (D) Gymnasium.

**Section 13. Nonstudent-related buildings and facilities.** All nonstudent-related buildings and facilities shall comply with the following provisions in this Chapter: §§ 3, 4(c)(v) and (vi), 5, 7, and 10, as applicable. Any building or facility other than a student-related or nonstudent-related building or facility exceeds these adequacy standards.

**Section 14. Adequacy and availability of district-owned space for the operation of a charter school.** The Department shall utilize the floor plans on file in the statewide database with the Department and the applicable district’s facility plan to determine whether district-owned space is available and the most recent Facility Condition Assessment and Section 11 of this Chapter to determine whether that school building or facility is adequate for operation of a charter school.



## Chapter 3

### Uniform Adequacy Standards

**Section 1. Authority.** This Chapter is promulgated pursuant to Wyoming Statutes 21-15-114(a)(xv), (ix) and 21-15-115.

**Section 2. Applicability.** This Chapter applies to all buildings and facilities subject to the Commission's rules and regulations. The Wyoming statewide adequacy standards establish uniform statewide standards for the adequacy of school buildings and facilities necessary for providing educational programs prescribed by law for the public schools.

**Section 3. Safety of the Educational Environment.** School buildings shall be in compliance with federal, state and local building and fire codes and laws that are applicable to the particular building. Code compliance includes the completion of system improvements or site improvements that are mandated in writing by an authority having jurisdiction for the continued use of a school building or facility. School buildings shall comply with all lawful environmental regulations promulgated by the Wyoming Department of Environmental Quality, the Wyoming Environmental Quality Council, the federal Environmental Protection Agency, and any other governmental entity with jurisdiction over the building. An existing school building may be deemed adequate with respect to this provision if it complies with the International Existing Building Code.

#### **Section 4. Building Site Requirements.**

(a) Size requirements. For schools that intend to organize and operate more than one of the following school types on a single site, the higher of the site sizes serves as the applicable requirement. Sites larger than those in the following requirements are permissible but exceed these adequacy standards. If an alternative school shares a site with another school, the alternative school students shall contribute toward the site size calculation for the combined school site.

(i) For elementary schools, an adequate site size is up to four (4) acres, plus an additional acre for each one hundred (100) students.

(ii) For middle schools, an adequate site size is up to ten (10) acres, plus an additional acre for each one hundred (100) students.

(iii) For senior high schools, an adequate site size is up to twenty (20) acres, plus an additional acre for each one hundred (100) students.

(b) Many schools pre-date the Commission's authority to promulgate adequacy standards. Existing school sites smaller than the minimum size sites in subsection (a) of this section that pre-date the original adoption of these standards are deemed adequate with respect to this subsection unless the Commission determines otherwise.

(c) Sites shall:

- (i) Have play areas that are relatively flat and level;
- (ii) Have a playground(s) for grades K-6 accessible to students;
- (iii) Have access to parking for staff, students, and visitors that enables the school to deliver the required statewide educational program;
- (iv) Have separate areas for bus loading and unloading and student pickup and dropoff;
- (v) Be accessible to emergency vehicles;
- (vi) Have positive water drainage away from the building such that runoff does not undermine the structural integrity of the school buildings located on the site or create flooding, ponding or erosion resulting in a threat to health, safety or welfare; and
- (vii) Have exterior lighting at entrance(s), parking area(s), bus loading and unloading area(s), and student pickup and dropoff area(s).

**Section 5. Building Performance Standards.** A building shall:

- (a) Have an FCI score between 0.0 and 0.60~~5~~;
- (b) Have exterior finishes that repel wind, snow, ice, and water intrusion;
- (c) Have roofing with positive water drainage;
- (d) Be structurally sound. A school building shall be considered structurally sound and safe if the building presents no imminent danger or major visible signs of decay or distress;
- (e) Be deemed adequate with respect to this subsection if the building systems are capable of maintaining an acceptable level of room comfort as determined by the Classroom Temperature Psychometric Chart adopted by the Commission and effective on August 27, 2020; and
- (f) Utilize one (1) or more of the following energy efficiency features:
  - (i) Energy-efficient lighting;
  - (ii) Light level control;
  - (iii) Occupancy sensors;
  - (iv) Multiple pane windows; and
  - (v) HVAC setback control.

**Section 6. Special Needs Students.** School buildings and facilities shall be deemed adequate with regard to this section if the building or facility meets the special needs of

students enrolled in the school as identified in their individualized education plans. If a special needs student enrolls in a district and the educational buildings and facilities that correspond to that student's needs are not adequate for the education and use of that student, the district shall notify the Department. The Department shall work with the Commission to develop a remedy to comply with the student's individualized education plan.

**Section 7. Building and Facility Accessibility.** School buildings and facilities shall be deemed adequate with regard to this section if the authority having jurisdiction deems the building or facility to be in compliance with relevant accessibility standards, **including local accessibility codes, the Americans with Disabilities Act of 1990 and the Americans with Disabilities Act Accessibility Guidelines.**

**Section 8. Adequacy of Educational Space for Required Programs.**

Educational buildings shall provide adequate educational space. Educational space shall be deemed adequate if a district is able to provide the educational programs required by Wyoming Statute § 21-1-101. If a district board of trustees makes a finding that the district is unable to provide the required programs because its educational space is inadequate, the district superintendent shall immediately notify the Department in writing and provide a detailed report explaining how the current space is not adequate for the delivery of the required educational programming. The report shall include elements necessary to evaluate the impact that the identified deficiency poses to the provision of the required educational program, including but not limited to objective and measurable impacts on students and expected actions necessary to mitigate that impact **such as aggregate student performance data, specific known deficits with respect to the Commission's Uniform Adequacy Standards, any known national standards relevant to the claimed deficiency, and any known comparables with school buildings and facilities located elsewhere in the district or State.** In the event the Department receives such a report, it shall make recommendations to the Commission evaluating the deficiency and suggesting remedies to alleviate the situation. The Department may satisfy its obligation under this section by utilizing the Facility Condition Assessment of existing school buildings and facilities and the most recent school capacity information available to the Department in developing its recommendation to the Commission. Based upon the district's report and the Department's recommendations, the Commission shall determine whether a remedy is necessary. If the Commission determines a remedy is necessary, it shall direct the Department to perform a most cost-effective remedy study in accordance with Chapter 8 § 6(b)(iii) of these Rules.

(a) Instructional spaces shall be sufficient for the required educational programs. Temporary educational space shall not be considered in evaluating Subsections (b) through (e) of this Section.

(b) Elementary school buildings shall provide the following educational spaces:

(i) General classrooms.

(ii) Space for specific curriculum. Buildings shall have space adequate to deliver the required educational program for the following subjects at the elementary school level, whether in general classrooms or specialized spaces:

- (A) Art;
- (B) Music;
- (C) Science; and
- (D) Other parts of the required state educational program necessitating specialized instructional space.

(ii) Physical education spaces. Physical education space shall include:

- (A) A gymnasium or multipurpose space; and
- (B) A playfield and playground.

(c) Middle school and high school buildings shall provide the following types of educational spaces:

(i) General classrooms;

(ii) Science classrooms. Science classrooms shall:

(A) Have adequate lab space to deliver the required educational program;

(B) Have adequate infrastructure to support the equipment necessary to deliver the required educational program; and

(C) Be equipped with code required safety equipment.

(iii) Fine and performing arts spaces. Fine and performing art spaces shall include adequate space capable of being used to deliver the required Fine and Performing Arts Standards.

(iv) Career and technical education (CTE) space. Middle and high schools shall have adequate space to deliver the required CTE standards.

(d) Middle schools shall provide or have access to sufficient facilities capable of delivering the required physical education standards:

(i) A gymnasium with a basic scoreboard capable of tracking score, time, and period;

(ii) A playfield. Standard playfields are natural seed or sod with an automatic irrigation system. Districts may opt for alternative surfaces, such as turf, but alternative surfaces exceed these adequacy standards unless the Commission approves the use of an artificial surface based on a lifecycle cost analysis comparing the cost of maintaining turf and a natural seed or sod surface; and

(iii) Locker rooms are not mandatory, but, when present, may include the following items without exceeding these adequacy standards:

- (A) Lockers and benches;
- (B) Shower facilities; and
- (C) Restroom facilities.

(e) High schools shall provide or have access to sufficient facilities capable of delivering the required physical education standards:

(i) A gymnasium with a basic scoreboard capable of tracking score, time, and period;

(ii) A soccer or football field; and

(A) Standard soccer or football fields are natural seed or sod with an automatic irrigation system. Districts may opt for alternative surfaces, such as turf, but alternative surfaces exceed these adequacy standards unless the Commission approves the use of an artificial surface based on a lifecycle cost analysis comparing the cost of maintaining turf and a natural seed or sod surface;

(B) The field may have football goal posts and/or fixed soccer goals;

(C) A basic scoreboard capable of tracking score, time, and period; and

(D) Additional features such as bleachers, upgraded scoreboards, concession stands, and field houses are allowed but exceed these adequacy standards.

(iii) Track and field facilities;

(A) High schools designated 3A and 4A in track and field may have up to eight (8) lanes with running surface width of thirty feet (30');

(B) High schools designated 1A and 2A in track and field may have up to six (6) lanes with running surface width of twenty-three feet (23');

(C) Allowable surfaces include synthetic impermeable textured surfaces, dirt, cinder, or asphalt;

(D) One of the "D" areas of the track infield may have a surface matching the athletic track; and

(E) Facilities to conduct field events are not mandatory, but, when present, may include the items listed in this subparagraph without exceeding these adequacy standards. To the extent a district opts to include field event facilities, those facilities should be located in an appropriate area on the available site, use appropriate surfaces for the intended use, and be constructed consistent with National High School Field Standards. Districts may build

facilities in excess of those allowable under this subparagraph, however those facilities exceed these adequacy standards. The allowable facilities include one (1) of each of the following:

- (I) Two-way long jump;
- (II) Triple jump runway with a landing pit at each end;
- (III) Shot put pad;
- (IV) Discus pad with cage;
- (V) Pole vault runway and/or vaulting box;
- (VI) Landing area; and
- (VII) High jump approach and landing area.

(iv) Locker rooms are not mandatory, but, when present, may include the following items without exceeding these adequacy standards:

- (A) Lockers and benches;
- (B) Shower facilities; and
- (C) Restroom facilities.

(f) All school buildings shall provide or have access to infrastructure, fixtures, and storage necessary to deliver the required educational program. “Infrastructure” does not include furniture or other furnishings.

(i) Educational spaces shall have the infrastructure and fixtures necessary for the normal activities of the required educational programs offered in the room and appropriate storage for classroom materials or access to appropriate storage.

(ii) Administrative, educational support, and facility support spaces in educational buildings shall have the minimum infrastructure and fixtures required for the necessary functions performed within. The following spaces, if present, should have the minimum infrastructure and fixtures needed to perform their necessary functions:

(A) Administrative offices;

(B) Student health, counseling and educational support space for the delivery of student health, counseling, and testing programs. The student health or nurse’s suite may have space to isolate sick students. It shall include secure storage for records, medications, and supplies, and a working communications system. The student health or nurse’s suite shall have a connected accessible restroom;

(C) Faculty workspace or teachers’ lounge, which may have more than one function, and may include a break area with a kitchenette;

(D) Network distribution space, which shall be accessible, securable, well-ventilated, temperature-controlled to accommodate routers, switches, servers and other devices to support school technology operational needs;

(E) Technology support space(s), which shall be sufficient to store and/or service user devices;

(F) Library, media, and research center, which shall have internet connectivity and fixtures, equipment, technology, and other resources necessary to provide the statewide educational program;

(G) Maintenance or janitorial space, which may include janitorial sinks;

(H) Assembly space, circulation space, and entry vestibules; and

(I) Enough space, equipment, and storage necessary to provide regular meals to students during the school day.

(g) School buildings shall have plumbing fixtures in the minimum number as shown below in the chart adapted from the 2018 International Building Code.

Water Closets		Lavatories	
Male	Female	Male	Female
1 per 50		1 per 50	

(h) Alternate delivery methods. Notwithstanding Section 7(b)-(g) of this chapter, if a school district chooses to use an alternate delivery method for instruction, any space used for the alternate method shall be considered adequate so long as the district can deliver the required state educational program.

(i) For schools that intend to organize and operate more than one of the preceding school types on a single site or within a single building, each portion of the school shall meet the minimum standards for the grade levels served.

(j) Rural schools. Notwithstanding Section 7(b)-(f) of this chapter, rural schools are not required to have any of the spaces identified above provided that they have sufficient general classrooms.

**Section 9. Capacity and Square Footage Requirements.**

(a) Because the Commission has determined that incorporation of the full text of its methodologies would be cumbersome or inefficient, the following methodologies are incorporated by reference in these Commission rules.

(i) Enrollment Projection Methodology adopted by the Commission and effective on August 27, 2020;

(ii) Capacity Calculation Methodology, adopted by the Commission and effective on August 27, 2020; and

(iii) Maximum Allowable Educational Building Square Footage Methodology, adopted by the Commission and effective on August 27, 2020.

(b) The incorporation by reference does not include any later amendments or editions of the incorporated matter beyond the applicable date identified in subsection (b) of this section. All incorporated methodologies may be viewed free of charge at the Commission's website (~~<https://stateconstruction.wyo.gov/school-facilities/commission/#h.pbenv01wD6NZQ>~~<https://stateconstruction.wyo.gov/school-facilities/school-facilities-commission/sfc-documents>) and are maintained at the State Construction Department at 700 West 21st Street in Cheyenne, WY, where they are available for public inspection and copying, at cost.

(c) A district-initiated project or element exceeds these adequacy standards if:

(i) It results in square footage in excess of the amount calculated under paragraph (a)(iii) of this section;

(ii) It increases the capacity of a building or facility which had a pre-project capacity score of less than one hundred percent (100%) as calculated under paragraph (a)(ii) of this section; or

(iii) The project results in a ratio of district non-educational to educational square footage, as calculated in W.S. § 21-15-109(c)(vii)(A), that exceeds twenty-one to seventy-nine (21:79).

**Section 10. Technological Capacity Criteria.** Any school building or facility capable of being utilized to provide the required educational program under the state education technology plan is deemed adequate with respect to this section. An educational building or facility shall have technology infrastructure to support all aspects of the educational, operational, and administrative processes, with access to internet connectivity and telecommunications services.

**Section 11. Adequacy Standards for Alternative Schools and Charter Schools.**

(a) Net educational space, at minimum, shall equal sixty-seven (67) sq. ft. per student. Because of the diversity of teaching strategies and the selective use of instructional areas, no designated type or size of space usage shall be mandatory, however the district must have access to sufficient space to deliver the required educational program.

(b) For alternative schools and charter schools on an independent site, the educational facilities shall comply with the following provisions in this Chapter: §§ 3; 4(c)(iii), (iv), (vi), (vii); 5; 6; 7; 9; and 10.

**Section 12. Site Security.** Security features included in the Facility Design Guidelines do not exceed these adequacy standards. School buildings shall have:



- (a) The following locking systems and hardware:
  - (i) Locks on the inside of classroom doors;
  - (ii) Exterior door locks; and
  - (iii) Door keying systems;
- (b) The following access control features:
  - (i) A single point of entry for visitors;
  - (ii) A secured vestibule;
  - (iii) Main entry control systems; and
  - (iv) A visitor management system;
- (c) The following communications systems:
  - (i) Two-way communication; and
  - (ii) Mass notification systems;
- (d) The following site and perimeter features:
  - (i) Site landscaping;
  - (ii) Site vehicle barricades;
  - (iii) A secure site perimeter to protect students from hazards and to discourage unauthorized access to the campus;
  - (iv) Clearly marked loading, unloading, drop-off zones, and fire zones;
  - (v) Security signage; and
  - (vi) Site lighting;
- (e) Video surveillance at the following locations, with recording capability in place:
  - (i) Main entry and other building entrances, with both front and back views of approach; and
  - (ii) Key exterior and interior areas, including but not limited to:
    - (A) The area outside restrooms, locker rooms, counseling offices, and administrative offices,

- (B) Bus drop-off and pick up areas;
  - (C) Stairwells;
  - (D) Main hallways;
  - (E) Cafeteria;
  - (F) The entrance to gymnasium and athletic fields;
  - (G) Parking lots; and
  - (H) Library;
- (f) The following egress and refuge features:
- (i) Classroom doors constructed of durable material; and
  - (ii) The ability to lockdown the following areas:
    - (A) All classrooms;
    - (B) Main entrances;
    - (C) Library; and
    - (D) Gymnasium.

**Section 13. Nonstudent-related buildings and facilities.** All nonstudent-related buildings and facilities shall comply with the following provisions in this Chapter: §§ 3, 4(c)(v) and (vi), 5, 7, and 10, as applicable. Any building or facility other than a student-related or nonstudent-related building or facility exceeds these adequacy standards.

**Section 14. Adequacy and availability of district-owned space for the operation of a charter school.** The Department shall utilize the floor plans on file in the statewide database with the Department and the applicable district's facility plan to determine whether district-owned space is available and the most recent Facility Condition Assessment and Section 11 of this Chapter to determine whether that school building or facility is adequate for operation of a charter school.

## Chapter 8

### Criteria for Identifying and Prioritizing Remedies, and Establishing Project Budgets

**Section 1. Authority.** This Chapter is promulgated pursuant to Wyoming Statutes 21-15-114(a)(xv); 21-15-117(a); 21-15-119(a), (c); 21-15-121(a); and 28-11-301(c)(iv).

**Section 2. Inventory.** The Department shall prepare and maintain an inventory of district-owned school buildings and facilities.

**Section 3. Assessment of Building and Facility Needs.** The Department shall develop and the Commission shall approve as a policy a comprehensive facility assessment guide. This guide shall include an assessment that measures and quantifies educational building condition and capacity needs on a statewide basis. The Department, in coordination with the districts, shall use this guide in the assessment of buildings and facilities under W.S. 21-15-117(a) and the results of this assessment shall be used in the development of the two~~three~~ schedules described in Section § 4 of this Chapter.

~~**Section 4. — Prioritization of Building Remediation.** The Commission shall annually evaluate the adequacy of the State's school buildings and facilities and make appropriation recommendations to the Legislature for funding based upon three schedules provided by the Department: condition, capacity, and a consolidated schedule. The consolidated schedule shall prioritize building and facility needs from the most critical to the least critical. These three schedules shall be calculated as described in this section.~~

~~(a) — Capacity schedule. The capacity schedule shall be prioritized based on projected capacity calculated in accordance with this subsection.~~

~~(i) — The Department shall calculate building capacity and enrollment projections based on the Commission's methodologies incorporated by reference in Chapter 3 of these Rules.~~

~~(ii) — For the purposes of projections, the construction time for capital remedies shall be presumed to be three (3) years, and the Department shall project enrollments over a five (5) year projection period beginning upon the presumed completion of a construction period, in accordance with W.S. 21-15-117(a)(iii).~~

~~(iii) — The Department shall use the projected enrollments by configuration to calculate an expected rate of change and apply that rate of change to each building in that configuration. This projected enrollment shall be the basis for prioritization under this subsection.~~

~~(iv) — The Commission may direct the Department to adjust projections in accordance with the Commission's enrollment projection methodology.~~

~~(v) — Capacity ranking. District capacity needs shall be ranked in the following manner on the capacity schedule:~~

~~(A) — Districts with projected capacity exceeding 100% shall be deemed to have a high capacity need.~~

~~(B) — Districts with a projected capacity between 100% and 90% shall be deemed to have a medium capacity need. When a school reaches a medium capacity need, or higher, the Department shall work with the district to determine the type of remedy most likely to resolve the capacity need in a timely and cost effective manner.~~

~~(C) — Districts with a projected capacity below 90% shall be deemed to have a low capacity need.~~

~~(b) — Condition schedule. The condition schedule shall be prioritized based on FCI score. District condition needs shall be ranked in the following manner on the condition schedule:~~

~~(i) — Schools with an FCI score exceeding 0.65 shall be deemed to have a high condition need.~~

~~(ii) — Schools with an FCI score between 0.55 and 0.65 shall be deemed to have a medium condition need. When a school reaches a medium condition need, or higher, the Department shall work with the district to determine the type of remedy most likely to resolve the condition need in a timely and cost effective manner.~~

~~(iii) — Schools with an FCI score below 0.55 shall be deemed to have a low condition need.~~

~~(c) — Prioritization of the consolidated schedule shall be based on the Composite Need Score calculated in accordance with this subsection.~~

~~(i) — The Composite Need Score shall be calculated using the following formula:~~

$$\text{Composite Need Score} = (\text{Capacity Need Score} \times 0.55) + (\text{FCI} \times 0.45)$$

~~(ii) — Capacity Needs Score and shall be calculated pursuant to this paragraph.~~

~~(A) — “SPC” means School Projected Capacity and shall be calculated by dividing a school’s projected enrollment by its projected capacity, which shall account for remedies anticipated to be completed within the projection period. A SPC of greater than 1.4 shall be rounded down to 1.4.~~

~~(B) — “CPC” means Configuration Projected Capacity and shall be calculated by dividing a configuration’s projected enrollment by its projected capacity, which shall account for remedies anticipated to be completed within the projection period. A CPC of greater than 1.4 shall be rounded down to 1.4.~~

(C) —“DPC” means District Projected Capacity and shall be calculated by dividing a district’s projected enrollment by its projected capacity, which shall account for remedies anticipated to be completed within the projection period. A DPC of greater than 1.4 shall be rounded down to 1.4.

(D) —“W<sup>S</sup>” means Weighting Factor for SPC and shall be .2.

(E) —“W<sup>C</sup>” means Weighting Factor for CPC and shall be .7.

(F) —“W<sup>D</sup>” means Weighting Factor for DPC and shall be .1.

(G) —The Capacity Needs Score shall be calculated using the following formula:

$$\text{Capacity Needs Score} = W^S \frac{\text{SPC}}{1.4} + W^C \frac{\text{CPC}}{1.4} + W^D \frac{\text{DPC}}{1.4}$$

(d) —The Commission may periodically review and verify needs assessment data and building and facility ratings for condition and capacity to ensure the assessments provide timely and uniform data in accordance with W.S. 21-15-117(a).

#### **Section 5. — Budget Recommendations.**

(a) —The Department shall prepare budgets based on the consolidated remediation schedule. Each budget shall include, but is not limited to, land, project planning, design, construction, and on site and off site infrastructure.

(b) —The Commission may, by majority vote, adjust the rankings on the consolidated remediation schedule for each budget period to ensure that the schedule ranks buildings from most critical to least critical needs, as provided in this subsection.

(i) —Any Commissioner may propose a change to the consolidated schedule by providing notice to the Department at least ten (10) business days in advance of a scheduled Commission meeting. Upon receipt of notice from a Commissioner pursuant to this paragraph, the Department shall provide the notice to all districts potentially affected by the proposed change.

(ii) —For any decision to adjust the rankings, the Commission shall make specific findings on the record regarding the relative need of all projects whose ranking is affected.

(iii) —No changes shall be made to the ranking of the consolidated remediation schedule for a budget period after the Commission’s May meeting, absent a showing of an emergency.

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(c) —Using accepted accounting standards and the principles outlined above the

Commission shall, not later than September 1 of each year, prepare and submit to the Governor and the Select Committee on School Facilities, a proposed budget, the prioritized list of projects proposed for funding, the amount of funding allocated to each project, the assessments conducted by the Commission of condition and capacity, and the annual building status report specified under W.S. 21-15-121.

**Section 6. — Identification and Determination of the Most Cost Effective Remedy.**

(a) — The Department shall consider various criteria in making a recommendation to the Commission regarding the most cost effective remedy of identified school building and facility needs to deliver quality educational services and to meet adequacy standards.

(i) Facility Design Standards and Guidelines, methodologies, procedures and policies of the Commission shall be considered by the Department, in consultation with the district, and appropriate data and facts shall be reported, which may be presented as a formal study identifying possible remedies to assist the Commission. The Department may utilize outside consultants to conduct studies.

(ii) The Department shall consider the following non-exclusive list of factors in making a recommendation concerning the most cost effective remedy, in addition to other factors it considers applicable under the circumstances:

\_\_\_\_\_ (A) — The district facility plan;

\_\_\_\_\_ (B) — Any available non-construction alternatives, including grade reconfiguration and non-capital remedies;

\_\_\_\_\_ (C) — The availability of major building and facility repair and replacement funds;

\_\_\_\_\_ (D) — District enrollment projections;

\_\_\_\_\_ (E) — The educational building or facility's design capacity and square footage;

\_\_\_\_\_ (F) — Immediacy of the need for a remedy;

\_\_\_\_\_ (G) — Compliance with statewide adequacy standards as outlined in Chapter 3 of these Rules;

\_\_\_\_\_ (H) — The prescribed statewide educational program;

\_\_\_\_\_ (I) — Total project cost and estimated budget for all determined remedies to address the identified need in comparison to the benefit expected to be derived from each remedy; and

~~\_\_\_\_\_ (J) Site, utilities, pavements, and other physical data and characteristics that may impact a proposed method of remediation, including availability of existing school sites or district owned land or the need to acquire land.~~

~~(b) The Commission may make a determination of the most cost effective remedy following the Department's recommendation by majority vote of the Commission. The Commission may take notice of studies commissioned by districts or the Department, but such an action shall not bind the Commission to approve the recommendations of the study or to include them in the Commission's recommendations to the Legislature.~~

~~(c) The Commission may change its recommendation for the most cost effective remedy at any time.~~

~~{the entire appendix has been omitted for the sake of length but is proposed for deletion in its entirety}~~

**Section 4. Building Needs Schedules.** The Commission shall annually evaluate the adequacy of the State's school buildings and facilities and develop two building needs schedules: condition and capacity.

(a) Capacity Schedule. The capacity schedule shall be based on projected capacity, calculated in accordance with this subsection, and the needs identified in accordance with § 5(a) of this Chapter.

(i) The Department shall calculate building capacity and enrollment projections based on the Commission's methodologies incorporated by reference in Chapter 3 § 9(a)(i) and (ii) of these Rules.

(ii) For the purposes of capacity projections, the construction time for capital remedies shall be presumed to be three (3) years, and the Department shall project enrollments over a five (5) year projection period beginning upon the presumed completion of a construction period, in accordance with W.S. 21-15-117(a)(iii).

(iii) The Department shall use the projected enrollments by configuration to calculate an expected rate of change and apply that rate of change to each building in that configuration. This projected enrollment and any studies performed pursuant to § 5 of this Chapter shall be the basis for generating the capacity schedule.

(iv) The Commission may direct the Department to adjust projections in accordance with § 4(d) of the Commission's enrollment projection methodology, as incorporated in Chapter 3 § 9(a)(i) of these Rules.

(b) Condition Schedule. The condition schedule shall be based on FCI score, as calculated in accordance with this subsection, and the needs identified in accordance with § 5(a) of this Chapter.

(i) The Department shall use the FCI calculations from the most recent Facilities Condition Assessment;

(ii) For the purposes of compiling the condition schedule, the Commission shall use FCI scores projected five (5) years from the current year and any studies performed pursuant to § 5 of this Chapter.

(iii) The Commission may include in the condition schedule any school building determined to have a remediation need under Chapter 3 § 8 of these rules.

(c) The Commission shall utilize the results of the most cost-effective remedy studies conducted under § 5 of this Chapter to prioritize the capacity and condition schedules. Needs identified under § 5(a) that have not yet received a most cost-effective remedy study shall not be prioritized but shall be included in the schedule and identified as needing a most cost-effective remedy determination.

(d) The Commission may periodically review and verify needs assessment data and building and facility ratings for condition and capacity to ensure the assessments provide timely and uniform data in accordance with W.S. 21-15-117(a).

**Section 5. Identification and Determination of the Most Cost-Effective Remedy.**

The Department shall conduct most cost-effective remedy studies pursuant to this Section.

(a) The Department shall conduct a most-cost effective remedy study for any school building or facility that:

(i) Has a projected capacity exceeding one hundred percent (100%), calculated pursuant to § 4(a) of this Chapter;

(ii) Has an FCI score exceeding 0.3, calculated pursuant to § 4(b) of this Chapter; or

(iii) Is inadequate to deliver the required educational services as determined by the Commission pursuant to Chapter 3 § 8 of these Rules.

(b) Procurement, Conduct, and Scope of Studies.

(i) The Department may self-perform a most cost-effective remedy study or utilize outside consultants. For any studies that the Department elects to conduct itself, it shall utilize and may rely upon the available FCI data for that school building or facility.

(ii) The Department shall retain control over the direction of all studies, but shall, to the greatest extent practicable, consult with the affected district and provide a reasonable opportunity for district involvement.

(iii) The Department may consider needs related to multiple buildings in a single study, including building needs that may not qualify for a study under the thresholds established in Subsection (a) of this Section.

(iv) Where the Department has studied multiple buildings, it may recommend a remedy involving more than one building if it concludes that this is in the best long-term



financial interests of the State and presents the most cost-effective means of remedying the district's facility needs.

(c) The Department and any consultants shall consider the following criteria, as applicable, in identifying the most cost-effective remedy for school building and facility needs to deliver quality educational services and to meet adequacy standards:

(i) The requirements of the Uniform Adequacy Standards, Facility Design Standards and Guidelines, methodologies, procedures, and policies of the Commission;

(ii) Appropriate data and facts concerning the condition, capacity, and adequacy of the identified school building or buildings;

(iii) The district facility plan;

(iv) Any available non-construction alternatives;

(v) The availability of major building and facility repair and replacement funds to address the identified need;

(vi) District enrollment projections and all available FCI projections;

(vii) The educational building or facility's design capacity and square footage;

(viii) The immediacy of the need for a remedy;

(ix) The prescribed statewide educational program;

(x) The total project cost and estimated budget for all determined remedies to address the identified need in comparison to the benefit expected to be derived from each remedy;

(xi) School district input, including but not limited to a consultation with the district and any studies commissioned by the district and presented to the Department; and

(xii) Any other **appropriate factor**.

(d) Upon completing its evaluation, the Department shall prepare a formal recommendation and report identifying the most cost-effective remedy for the identified building or facility. The Department's recommendation shall contain:

(i) An identification and explanation of the recommended remedy, including the estimated cost and anticipated budget request;

(ii) The rationale for the recommended remedy, including any cost, lifespan, condition, and capacity data considered by the Department; and

(iii) Any alternative remedies considered by the Department and the reason for rejecting those alternatives.

(e) Upon completing its recommendation, the Department shall provide a complete copy of its recommendation to the district.

(i) If the district concurs with the Department's recommendation, the Department shall present the recommendation and full report to the Commission.

(ii) If the district disagrees with the Department's recommendation, the district shall have thirty (30) days to request an informal review of the recommendation pursuant to Chapter 2 § 4 of these Rules. Any such request shall conform to the requirements of Chapter 2 § 4(b) of these Rules.

(A) If the district requests informal review, the Department shall not present its recommendation to the Commission until after the informal review process is complete.

(B) Upon conclusion of the informal review process, the Department shall compile an updated report and recommendation for the Commission, which shall include the record from the informal review. If the Department does not recommend the district's preferred remedy to the Commission, the Department shall include the district's desired alternative in the list required by paragraph (d)(iii) of this Section of this Chapter along with the Director's written decision from the informal review. The district may present its preferred remedy at the Commission meeting where consideration of the Department's most cost-effective remedy recommendation is scheduled to occur.

(iii) If the district does not notify the Department of its concurrence or request an informal review within thirty (30) days of the Department providing its recommendation to the district, the Department may present the recommendation and a full copy of the report to the Commission.

(f) Upon receipt of the Department's recommendation, the Commission shall make a determination of the most cost-effective remedy.

(i) The Commission shall issue a written determination explaining and supporting its determination of the most cost-effective remedy. The Commission may adopt a recommended decision as its own written determination or direct staff to draft a new determination.

(ii) The Commission may take notice of studies commissioned by districts and presented to the Department during an informal review, but such an action shall not bind the Commission to approve the recommendations of the study or to include them in the Commission's recommendations to the Legislature.

(g) The Commission's determination of the most cost-effective remedy is a final agency action.

(h) After a most cost-effective remedy determination for an identified capacity or condition need, the Department shall update its report and recommendations to the Commission as necessary and appropriate to account for changed circumstances. Such circumstances may

include, but are not limited to, changes in the relevant FCI score or school capacity, economic circumstances, or the anticipated cost of the identified most cost-effective remedy. The Commission may change its determination of the most cost-effective remedy at any time on its own initiative, upon request of the district, or upon receiving the Department's updated report and recommendation pursuant to this Subsection.

### **Section 6. Budget Recommendations.**

(a) The Department shall prepare a budget proposal each year based on the capacity and condition schedules, any most cost-effective remedy studies undertaken pursuant to § 5 of this Chapter, and recommendations it has prepared under Chapter 3 § 8 of these Rules. This budget proposal may also contain recommendations for funds necessary to complete future studies, including but not limited to most-cost effective remedy studies, as the Department concludes are necessary in order to carry out its mission. The Department shall present its budget proposal to the Commission sufficiently in advance of the Commission's statutory deadline to submit a budget recommendation to the Select Committee on School Facilities such that the Commission may consider the budget proposal as it formulates that recommendation.

(b) The Commission shall prepare budgets and recommend projects to the Select Committee on School Facilities based on the capacity and condition schedules, any reports received pursuant to Chapter 3 § 8 of these Rules, and most cost-effective remedy studies and determinations. Each budget shall include, but is not limited to, land, project planning, design, construction, and on-site and off-site infrastructure.

(c) Using accepted accounting standards and the principles outlined above, the Commission shall, not later than September 1 of each year, prepare and submit to the Governor and the Select Committee on School Facilities, a proposed budget, the prioritized list of projects proposed for funding, the amount of funding allocated to each project, the assessments conducted by the Commission of condition and capacity, any notices received from a district pursuant to Chapter 3 § 8 of these Rules and the Department's report pertaining thereto, and the annual building status report specified under W.S. 21-15-121.

## Chapter 8

### Criteria for Identifying and Prioritizing Remedies, and Establishing Project Budgets

**Section 1. Authority.** This Chapter is promulgated pursuant to Wyoming Statutes 21-15-114(a)(xv); 21-15-117(a); 21-15-119(a), (c); 21-15-121(a); and 28-11-301(c)(iv).

**Section 2. Inventory.** The Department shall prepare and maintain an inventory of district-owned school buildings and facilities.

**Section 3. Assessment of Building and Facility Needs.** The Department shall develop and the Commission shall approve as a policy a comprehensive facility assessment guide. This guide shall include an assessment that measures and quantifies educational building condition and capacity needs on a statewide basis. The Department, **in coordination with the districts**, shall use this guide in the assessment of buildings and facilities under W.S. 21-15-117(a) and the results of this assessment shall be used in the development of the two schedules described in § 4 of this Chapter.

**Section 4. Building Needs Schedules.** The Commission shall annually evaluate the adequacy of the State's school buildings and facilities and develop two building needs schedules: condition and capacity.

(a) Capacity Schedule. The capacity schedule shall be based on projected capacity, calculated in accordance with this subsection, and the needs identified in accordance with § 5(a) of this Chapter.

(i) The Department shall calculate building capacity and enrollment projections based on the Commission's methodologies incorporated by reference in Chapter 3 § 9(a)(i) and (ii) of these Rules.

(ii) For the purposes of capacity projections, the construction time for capital remedies shall be presumed to be three (3) years, and the Department shall project enrollments over a five (5) year projection period beginning upon the presumed completion of a construction period, in accordance with W.S. 21-15-117(a)(iii).

(iii) The Department shall use the projected enrollments by configuration to calculate an expected rate of change and apply that rate of change to each building in that configuration. This projected enrollment and any studies performed pursuant to § 5 of this Chapter shall be the basis for generating the capacity schedule.

(iv) The Commission may direct the Department to adjust projections in accordance with § 4(d) of the Commission's enrollment projection methodology, as incorporated in Chapter 3 § 9(a)(i) of these Rules.

(b) Condition Schedule. The condition schedule shall be based on FCI score, as calculated in accordance with this subsection, and the needs identified in accordance with § 5(a) of this Chapter.

(i) The Department shall use the FCI calculations from the most recent Facilities Condition Assessment;

(ii) For the purposes of compiling the condition schedule, the Commission shall use FCI scores projected five (5) years from the current year and any studies performed pursuant to § 5 of this Chapter.

(iii) The Commission may include in the condition schedule any school building determined to have a remediation need under Chapter 3 § 8 of these rules.

(c) The Commission shall utilize the results of the most cost-effective remedy studies conducted under § 5 of this Chapter to prioritize the capacity and condition schedules. Needs identified under § 5(a) that have not yet received a most cost-effective remedy study shall not be prioritized but shall be included in the schedule and identified as needing a most cost-effective remedy determination.

(d) The Commission may periodically review and verify needs assessment data and building and facility ratings for condition and capacity to ensure the assessments provide timely and uniform data in accordance with W.S. 21-15-117(a).

**Section 5. Identification and Determination of the Most Cost-Effective Remedy.**  
The Department shall conduct most cost-effective remedy studies pursuant to this Section.

(a) The Department shall conduct a most-cost effective remedy study for any school building or facility that:

(i) Has a projected capacity exceeding one hundred percent (100%), calculated pursuant to § 4(a) of this Chapter;

(ii) Has an FCI score exceeding 0.3, calculated pursuant to § 4(b) of this Chapter; or

(iii) Is inadequate to deliver the required educational services as determined by the Commission pursuant to Chapter 3 § 8 of these Rules.

(b) Procurement, Conduct, and Scope of Studies.

(i) The Department may self-perform a most cost-effective remedy study or utilize outside consultants. For any studies that the Department elects to conduct itself, it shall utilize and may rely upon the available FCI data for that school building or facility.

(ii) The Department shall retain control over the direction of all studies, but shall, to the greatest extent practicable, consult with the affected district and provide a reasonable opportunity for district involvement.

(iii) The Department may consider needs related to multiple buildings in a single study, including building needs that may not qualify for a study under the thresholds established in Subsection (a) of this Section.

(iv) Where the Department has studied multiple buildings, it may recommend a remedy involving more than one building if it concludes that this is in the best long-term financial interests of the State and presents the most cost-effective means of remedying the district's facility needs.

(c) The Department and any consultants shall consider the following criteria, as applicable, in identifying the most cost-effective remedy for school building and facility needs to deliver quality educational services and to meet adequacy standards:

(i) The requirements of the Uniform Adequacy Standards, Facility Design Standards and Guidelines, methodologies, procedures, and policies of the Commission;

(ii) Appropriate data and facts concerning the condition, capacity, and adequacy of the identified school building or buildings;

(iii) The district facility plan;

(iv) Any available non-construction alternatives;

(v) The availability of major building and facility repair and replacement funds to address the identified need;

(vi) District enrollment projections and all available FCI projections;

(vii) The educational building or facility's design capacity and square footage;

(viii) The immediacy of the need for a remedy;

(ix) The prescribed statewide educational program;

(x) The total project cost and estimated budget for all determined remedies to address the identified need in comparison to the benefit expected to be derived from each remedy;

(xi) School district input, including but not limited to a consultation with the district and any studies commissioned by the district and presented to the Department; and

(xii) Any other **appropriate factor**.

(d) Upon completing its evaluation, the Department shall prepare a formal recommendation and report identifying the most cost-effective remedy for the identified building or facility. The Department's recommendation shall contain:

(i) An identification and explanation of the recommended remedy, including the estimated cost and anticipated budget request;

(ii) The rationale for the recommended remedy, including any cost, lifespan, condition, and capacity data considered by the Department; and

(iii) Any alternative remedies considered by the Department and the reason for rejecting those alternatives.

(e) Upon completing its recommendation, the Department shall provide a complete copy of its recommendation to the district.

(i) If the district concurs with the Department's recommendation, the Department shall present the recommendation and full report to the Commission.

(ii) If the district disagrees with the Department's recommendation, the district shall have thirty (30) days to request an informal review of the recommendation pursuant to Chapter 2 § 4 of these Rules. Any such request shall conform to the requirements of Chapter 2 § 4(b) of these Rules.

(A) If the district requests informal review, the Department shall not present its recommendation to the Commission until after the informal review process is complete.

(B) Upon conclusion of the informal review process, the Department shall compile an updated report and recommendation for the Commission, which shall include the record from the informal review. If the Department does not recommend the district's preferred remedy to the Commission, the Department shall include the district's desired alternative in the list required by paragraph (d)(iii) of this Section of this Chapter along with the Director's written decision from the informal review. The district may present its preferred remedy at the Commission meeting where consideration of the Department's most cost-effective remedy recommendation is scheduled to occur.

(iii) If the district does not notify the Department of its concurrence or request an informal review within thirty (30) days of the Department providing its recommendation to the district, the Department may present the recommendation and a full copy of the report to the Commission.

(f) Upon receipt of the Department's recommendation, the Commission shall make a determination of the most cost-effective remedy.

(i) The Commission shall issue a written determination explaining and supporting its determination of the most cost-effective remedy. The Commission may adopt a recommended decision as its own written determination or direct staff to draft a new determination.

(ii) The Commission may take notice of studies commissioned by districts and presented to the Department during an informal review, but such an action shall not bind the Commission to approve the recommendations of the study or to include them in the Commission's recommendations to the Legislature.

(g) The Commission's determination of the most cost-effective remedy is a final agency action.

(h) After a most cost-effective remedy determination for an identified capacity or condition need, the Department shall update its report and recommendations to the Commission as necessary and appropriate to account for changed circumstances. Such circumstances may include, but are not limited to, changes in the relevant FCI score or school capacity, economic circumstances, or the anticipated cost of the identified most cost-effective remedy. The Commission may change its determination of the most cost-effective remedy at any time on its own initiative, upon request of the district, or upon receiving the Department's updated report and recommendation pursuant to this Subsection.

### **Section 6. Budget Recommendations.**

(a) The Department shall prepare a budget proposal each year based on the capacity and condition schedules, any most cost-effective remedy studies undertaken pursuant to § 5 of this Chapter, and recommendations it has prepared under Chapter 3 § 8 of these Rules. This budget proposal may also contain recommendations for funds necessary to complete future studies, including but not limited to most-cost effective remedy studies, as the Department concludes are necessary in order to carry out its mission. The Department shall present its budget proposal to the Commission sufficiently in advance of the Commission's statutory deadline to submit a budget recommendation to the Select Committee on School Facilities such that the Commission may consider the budget proposal as it formulates that recommendation.

(b) The Commission shall prepare budgets and recommend projects to the Select Committee on School Facilities based on the capacity and condition schedules, any reports received pursuant to Chapter 3 § 8 of these Rules, and most cost-effective remedy studies and determinations. Each budget shall include, but is not limited to, land, project planning, design, construction, and on-site and off-site infrastructure.

(c) Using accepted accounting standards and the principles outlined above, the Commission shall, not later than September 1 of each year, prepare and submit to the Governor and the Select Committee on School Facilities, a proposed budget, the prioritized list of projects proposed for funding, the amount of funding allocated to each project, the assessments conducted by the Commission of condition and capacity, any notices received from a district pursuant to Chapter 3 § 8 of these Rules and the Department's report pertaining thereto, and the annual building status report specified under W.S. 21-15-121.