




## Memorandum

To: Ellington E. Churchill, Jr., Secretary  
Maryland Department of General Services

From: Steve Lauria, Maryland Green Building Council Staff 

Re: 21st Century School Facilities Act, Guidance for New Public School Buildings to Achieve High-Performance Buildings

Date: October 23, 2019

Copies: Maryland Green Building Council  
Ellen Robertson, DGS Legislative Liaison  
Lauri McGuire, Principal Council  
Allison Mayer, Deputy Chief of Staff  
Melissa Ross, Governor's Legislative Office

At its monthly meeting of October 16, 2019, the Maryland Green Building Council acted on the requirement of House Bill 1783, *21st Century School Facilities Act*, Chapter 14 of the Laws of Maryland and specifically, *SF&P §4-809* to;

*develop guidelines for new public school buildings to achieve the equivalent of the current version of the U.S. Green Building Council's LEED (Leadership in Energy and Environmental Design) Green Building Rating System Silver rating or a comparable rating system or building code as authorized in §3-601.1, of this [State Finance and Procurement] article without requiring an independent certification that the buildings have achieved the required standards.*

By approval of a majority of members present, the Green Building Council recommended that the Maryland Department of General Services adopt the attached, *Guidance for New Public School Buildings to Achieve High-Performance Buildings*, dated October 23, 2019. Upon your approval, the Guidelines will be appended to the Maryland High Performance Green Building Program.



# 21st Century School Facilities Act

## Guidance for New Public School Buildings to Achieve High-Performance Buildings

Pursuant to §4-809 of the State Finance and Procurement Article (SF&P), The Maryland Green Building Council has the following duties:

- (1) evaluate current high performance building technologies;*
- (2) provide recommendations concerning the most cost-effective green building technologies that the State might consider requiring in the construction of State facilities, including consideration of the additional cost associated with the various technologies;*
- (3) provide recommendations concerning how to expand green building in the State;*
- (4) develop a list of building types for which green building technologies should not be applied, taking into consideration the operational aspects of facilities evaluated, and the utility of a waiver process where appropriate;*
- (5) establish a process for receiving public input.*

In 2018, House Bill 1783, *21st Century School Facilities Act*, Chapter 14 of the Laws of Maryland 2018 was enacted by gubernatorial veto override. Among other things, the Act amended SF&P §4-809 to include an additional responsibility for the Maryland Green Building Council to:

- (6) develop guidelines for new public school buildings to achieve the equivalent of the current version of the U.S. Green Building Council's LEED (Leadership in Energy and Environmental Design) Green Building Rating System Silver rating or a comparable rating system or building code as authorized in §3-601.1, of this [State Finance and Procurement] article without requiring an independent certification that the buildings have achieved the required standards.*

These Guidelines are being established to assist Local Education Agencies (LEAs) to achieve a minimum equivalent of the U.S. Green Building Council's LEED (Leadership in Energy and Environmental Design) Green Building Rating System Silver rating or comparable rating system or building code as authorized in SF&P §3-602.1.

**For purposes of this Guidance, the following words have the meaning indicated.**

- 1. Certification** means a documented, verification provided by an independent third-party that a facility was designed and built in compliance with high-performance green building rating system requirements as described in the *Maryland High Performance Green Building Program*. Green building certification includes a process which varies with each proprietary rating system. Certification may include registration of the project with the rating entity, submission of an application for review by the rating entity and receipt of a rating determination or 'certificate' from the entity.
- 2. Green Building Rating System** means a Green Building Rating System that includes prescriptive, performance-based or outcome-based guidelines and criteria whereby a facility may be designed and constructed to ensure the facility is resource-efficient and diminishes the impact of the built environment on human health and the natural environment.



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3. **High performance building** has the meaning provided in §3–602.1 of the *State Finance and Procurement Article*.
4. **Independent Third Party** means an independent organization or entity and is not the Owner or a member of the Architectural/Engineering design or Builder team for the subject facility design or construction and is a consultant contracted to the Owner. The Independent Third Party shall have a minimum of five (5) years of demonstrable experience in certification of high-performance facilities utilizing a scientifically based, transparent, objective and progressive system that is commonly-recognized in the US design and construction industry.
5. **Interagency Commission (IAC)** has the meaning provided in §5-301 of the Education Article.
6. **Local Education Agency (LEA)** means public boards of education or other public authority legally constituted within the State to either provide administrative control or direction of, or perform a service function for public schools serving individuals ages 0 to 21 in a state, city, county, township, school district, or other political subdivision including a combination of school districts or counties recognized in Maryland as an administrative agency for its public schools.
7. **Maryland High Performance Green Building Program** means the *Program* that describes energy and resource-efficient requirements for design and construction of State of Maryland-owned facilities.
8. **Public School** means a facility for educational use and within the jurisdictional authority of the State of Maryland Board of Education or Superintendent of Schools or Interagency Commission as described in the *Education Article 2-303 (f)(1), 5-301 or 5-302*.
9. **Independent Third-Party Letter of Opinion:** Documentation prepared and submitted to the LEA by an Independent Third-Party stating that the subject facility design and construction meets or exceeds requirements of the *Maryland High Performance Green Building Program* with the exception of the requirements of third-party certification.
  - a. Required Content of Letter of Opinion:
    - i. Date of Opinion
    - ii. LEA for which the facility is designed or constructed and responsible party contact information
    - iii. Narrative description of subject facility including use, size, cost, features
    - iv. Design and construction team names and contact information
    - v. Professional Credentials of the Independent-Third Party responsible for preparation of the Letter of Opinion
    - vi. Signed statement attesting that the project meets the requirements of the *Maryland High Performance Green Building Program* with the exception of the requirements of third-party certification



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- b. The letter shall be submitted to the LEA responsible for the project's construction and a copy forwarded to the Maryland Interagency Commission on School Construction.
- c. Submittal Timing: The letter shall be submitted within two months of the project Construction Closeout.

### Applicability

These Guidelines apply to new public school buildings that receive State of Maryland public school construction funds as described in the *§5-312 of the Education Article*.

The school shall be designed and constructed to meet requirements of the *Maryland High Performance Green Building Program* with the exception of obtaining an independent, third-party certification as an element of one of the proprietary rating systems described in the *Program*. The architect or engineer of record shall indicate in the construction documents, the selected high-performance rating system used for design and construction with which, the project is compliant. The LEA may obtain a Letter of Opinion from an Independent Third Party to be submitted as a compliance document in accordance with Appendix B of the *Program*.

These Guidelines do not preclude the school from achieving a high-performance building rating system certification with verification provided by a third-party, that the facility was designed and constructed in compliance with the rating system described in the *Maryland High Performance Green Building Program*.

APPROVED

Ellington E. Churchill, Jr., Secretary  
Maryland Department of General Services

DATE

11-13-2019