

May 8, 2019

MEMORANDUM

TO: State Board of Regents

FROM: David L. Buhler

SUBJECT: USHE – Revision of Policy R701, *Capital Facilities*

Issue

Policy R701, *Capital Facilities* governs institutional requests for new capital facility projects. The proposed revisions align the Regent policy with Legislative changes made by Senate Bill 102 from the 2019 General Session.

Background

Senate Bill 102, *Higher Education Capital Facilities* creates two new types of capital facility funding for USHE capital facility needs. The first sets aside funds for USHE capital projects and requires the Board of Regents to determine how to allocate those funds based on a formula. The second is similar to the current Regent capital development prioritization process and requires the Board to prioritize additional USHE capital needs. These changes will require new Regent policies in addition to the revision of R701, *Capital Facilities*, which governs institutional capital facility requests. Changes to R701 include:

- Addition of references to new statutes and policies applicable to Regent capital facilities requests
- Inclusion of the definitions for the two new types of capital facility projects defined by Senate Bill 102
- Revision of Boards of Trustees review to include statutory language concerning the cost effective and efficient use of resources and consistency with institutional mission and need
- Addition of policy approvals for the new formula allocation and use of funds
- Clarification of the existing Regent prioritization process to use new Senate Bill 102 terminology
- Addition of statutory requirement for Regent review of cost and design for completed capital projects

Commissioner's Recommendation

The Commissioner recommends the Regents revise Policy R701 effective immediately.

David L. Buhler
Commissioner of Higher Education

DLB/KLH/RPA
Attachments

R701-1 Purpose: To establish the respective roles of the State Board of Regents, the Boards of Trustees and the Presidents regarding capital facilities and institutional requests for new capital facility projects.

R701-2 References

- 2.1. Utah Code §53B-6-101 (Master Plan for Higher Education - Studies and Evaluations)
- 2.2. Utah Code §53B-7-101 (Combined Requests for Appropriations)
- 2.3. Utah Code §53B-20-101 (Property Rights - Title and Control)
- 2.4. [Utah Code §53B-22-201 \(Capital Developments\)](#)
- 2.54. Utah Code Title 63A, Chapter 5 (State Building Board - Division of Facilities Construction and Management)
- 2.65. Regent Policy R711, State Building Board Delegation of Capital Facilities Projects
- 2.76. Regent Policy R706, Capital Facilities Master Planning
- 2.8.7 Regent Policy R741, ~~Capital Development Prioritization~~ [Dedicated Capital Project Allocation Formula](#)
- 2.9. [Regent Policy R742, Process for Institutional Use of Dedicated Capital Project Funds](#)
- 2.10. [Regent Policy R743, Nondedicated Capital Project Prioritization Process](#)

R701-3 Definitions

- 3.1 **Architectural Programming:** A formal decision-making process used to identify and define the goals and uses of a capital project and to define the scope of work and cost prior to design or construction.
- 3.2 **Capital Facilities:** Capital Facilities are defined as fixed capital assets such as buildings and structures, real estate, utilities and distribution infrastructure, landscape features, hardscape (surface parking, plazas, sidewalks, and exterior stairs and ramps), roadways, campus lighting, and other improvements that serve and protect the general purposes of an institution.
- 3.3 **Capital Development:** This policy adopts the definition established in Utah Code 63A-5-104(1)(a).
- 3.4 **Capital Improvement:** This policy adopts the definition established in Utah Code 63A-5-104(1)(b).

¹ Approved September 16, 1975; amended February 16, 1982, June 24, 1988, December 14, 1990, June 18, 1993, September 24, 1993, December 11, 1998, June 4, 1999, April 18, 2008, April 1, 2010, November 16, 2012, January 25, 2013, September 13, 2013, January 24, 2014, May 15, 2015, ~~and~~ July 21, 2017, [and May 19, 2019](#).

3.5. **Dedicated Project:** a capital development project for which state funds from an institution's formulaic allocation under Utah Code 53B-22-201 are requested or used.

3.6. **Nondedicated Project:** a capital development project for which state funds from a source other than an institution's allocation under Utah Code 53B-22-201 are requested or used.

3.5. Remodeling: includes any alteration, modification, or improvement project other than routine maintenance or repair work, regardless of the source of funding.

R701-4 Effective and Efficient Use of Resources: The Utah System of Higher Education seeks to maximize the effective and efficient use of state resources. Institutions must demonstrate that requests for construction of new capital facilities or remodeling of existing facilities meet the standards of approved academic and facilities master plans. Such justification should consider the availability of state resources and include information relating to student enrollments, space utilization, structural obsolescence, operational inefficiencies, and operating budget constraints.

4.1. Remodeling: Institutions should remodel existing capital facilities for the purpose of changing the building's function only when the project is justified by and consistent with ~~the~~ the institution's mission and in accord with the Board of Regents' previously approved goals and objectives.

R701-5. State Funded Capital Projects Approvals

5.1. Boards of Trustee Review of Requests: Institutions shall obtain approval from their respective Boards of Trustees before they may submit a ~~request~~ funding request for ~~dedicated~~capital development, nondedicated, and capital improvement projects to the Board of Regents. Boards of Trustees shall ensure that proposed project requests; are cost effective and an efficient use of resources, are consistent with the institution's Master Plan, are consistent with the institution's mission, and fulfill a critical institutional facility need~~the role assignment of the institution, and institutional goals and objectives.~~

5.2 Commissioner's Office Recommendations: The Commissioner and his staff shall provide annual recommendations for ~~capital facilities development~~dedicated, nondedicated, and improvement projects based on approved allocation and prioritization ~~policies~~ procedures for consideration by the Board in the preparation of its recommendations to the State Building Board, Governor and Legislature.

5.3 **Regent Allocation for Dedicated Projects:** The Board shall establish and annually review a formula for the allocation of dedicated project funding provided by the legislature in accordance with Regent Policy R742, *Dedicated Capital Project Allocation Formula*. The Board shall allocate funds to institutions annually before May 31 in accordance with Policy R742.

5.4 **Institutional Use of Funds for Dedicated Projects:** The process for institutions to request the use of legislative appropriations allocated by the Board for a dedicated project are governed by Regent Policy R743, *Process for Institutional Use of Dedicated Capital Project Funds*. The Board shall annually submit a list of recommended dedicated projects to the State Building Board, the Governor, and the State Legislature.

5.53 Regent Prioritization of ~~State Funded~~Nondedicated Projects: The Board shall annually prioritize ~~capital development~~nondedicated projects for the System of Higher Education in accordance with Regent Policy R741, *Nondedicated Capital Development Project Prioritization Process*, and submit final recommendations to the State Building Board, the Governor, and the State Legislature.

R701-6. Submission of Capital Improvement Requests – Each year institutions shall submit to the Utah State Building Board and the Board of Regents a prioritized list of projects for funding through the state capital improvement program.

6.1. Non-inclusion of Equipment: Institutions may not include acquisition of equipment unless it is an integral component of a capital improvement.

6.2. Non-inclusion of Normal Maintenance: Normal maintenance of fixed capital assets (i.e., unplanned or discretionary) shall be considered part of the annual operating budget and may not be included as a component of a capital improvement project. Normal maintenance excludes preventive and corrective maintenance of equipment scheduled by the Division of Facilities Construction and Management (DFCM), as well as planned or programmed maintenance of major structural components of a facility (i.e., roofs, parking lots).

R701-7 Responsibilities of Institutional Presidents. Presidents or their designees may:

7.1. Other Necessary Actions: Take all necessary actions relating to construction and remodeling activities that do not require State Building Board approval.

7.2. Routine Repair and Maintenance: Assume the responsibility for routine repair and maintenance of existing structures or facilities (i.e., painting, roof repair, plumbing and electrical repairs, etc.). Institutions must adhere to the State Building Board facility maintenance standards.

7.3. Change Orders: Assume the responsibility to approve and recommend to the DFCM any change orders on projects under construction, as long as funds are available and the change order is within the approved purpose of the project.

7.4. Accept Completed Facilities: Accept completed capital facilities from the DFCM.

R701-8 Architectural Programming of State-Funded Capital Development Projects: Prior to entering into a contract for architectural programming services for a future state-funded capital development project that has not been approved by the State Legislature, an institution shall first receive approvals of the institution's Board of Trustees, the Board of Regents, and the State Building Board in that order.

8.1. Institutions do not need Board of Regent approval to architecturally program a facility that has been affirmatively authorized and funded by the State Legislature.

8.2. Institutions that fund an architectural program for a facility using donations, institutional funds, or other funds not appropriated by the State Legislature may request reimbursement for those funds in the state funded capital development request.

[R701-9 Board Review of Completed State-Funded Capital Development Projects: As required by Utah Code 53B-22-204\(8\) the Board shall review the cost and the design of all completed dedicated and nondedicated projects.](#)