§ 408. Plans and specifications of school buildings must be approved by commissioner of education. 1. No schoolhouse shall hereafter be erected, purchased, repaired, enlarged or remodeled nor shall the advertisement for bids for the execution of the plans and specifications for such schoolhouses be placed, in any school district except in a city school district in a city having seventy thousand inhabitants or more, at an expense which shall exceed one hundred thousand dollars, until the plans and specifications shall have been submitted to the commissioner of education and his approval endorsed thereon. Such plans and specifications shall show in detail the ventilation, heating and lighting of such buildings.

In the case of a school district in a city having seventy thousand inhabitants or more, all the provisions previously set forth in this subdivision shall apply, except that the commissioner may waive the requirement for submission of plans and specifications and substitute therefor the requirement for submission of an outline of such plans and specifications for his review. Such outline shall be in a form which he may prescribe from time to time.

In either case, the commissioner may, in his discretion, review plans and specifications for projects estimated at an expense of less than one hundred thousand dollars.

In the case of a school district in a city having a million inhabitants or more, all of the provisions previously set forth in this subdivision shall apply, except that such school district shall only be required to submit an outline of the plans and specifications to the commissioner of education for his information where a schoolhouse is to be erected in conjunction with the development of a project to be developed under the provisions of article two or five of the private housing finance law and where both the school and the project are to have rights or interests in the same land, regardless of the similarity or equality thereof, including fee interests, easements, space rights or other rights or interests.

2. The commissioner of education shall not approve the plans for the

erection or purchase of any school building or addition thereto or remodeling thereof unless the same shall provide for heating, ventilation, lighting, sanitation, storm drainage and health, fire and accident protection adequate to maintain healthful, safe and comfortable conditions therein and unless the county superintendent of highways or commissioner of public works has been advised of the location of all temporary and permanent entrances and exits upon all public highways and the storm drainage plan which is to be used.

3. The commissioner shall approve the plans and specifications, heretofore or hereafter submitted pursuant to this section, for the erection or purchase of any school building or addition thereto or remodeling thereof on the site or sites selected therefor pursuant to this chapter, if such plans conform to the requirements and provisions of this chapter and the regulations of the commissioner adopted pursuant to this chapter in all other respects; provided, however, that the commissioner of education shall not approve the plans for the erection or purchase of any school building or addition thereto unless the site has been selected with reasonable consideration of the following factors; its place in a comprehensive, long-term school building program; area required for outdoor educational activities; educational adaptability, environment, accessibility; soil conditions; initial and ultimate cost. In developing such plans and specifications, school districts are encouraged to review the energy conservation and saving best practices available from the department and the New York state energy research and development authority.

* 3-a. (a) The commissioner shall not approve the plans for the erection of any new schoolhouse within five hundred feet of a controlled-access highway as defined in this subdivision unless the commissioner determines that (i) space is so limited that there is no other appropriate site to erect such schoolhouse; (ii) plans for such schoolhouse include adequate engineering controls to address air quality; and (iii) the school district has demonstrated that other potential sites would pose equal or greater hazards to health and safety.

(b) For purposes of this subdivision, the construction of a new schoolhouse upon the site of an existing schoolhouse, or the

construction of an addition or annex constructed to serve an existing schoolhouse, shall not be considered erection of a new schoolhouse.

(c) For purposes of this subdivision, a "controlled-access highway" shall mean: (i) a controlled-access highway as defined by section one hundred nine of the vehicle and traffic law under the jurisdiction of the commissioner of transportation which has been functionally classified by the department of transportation as principal arterial - interstate or principal arterial - other freeway/expressway on official functional classification maps approved by the federal highway administration pursuant to part 470.105 of title 23 of the code of federal regulations, as amended from time to time; and (ii) a divided highway under the jurisdiction of the New York state thruway authority for mixed traffic with access limited as the authority may determine and generally with grade separations at intersections.

(d) Nothing in this subdivision shall be construed to create a private right of action to enforce the terms of this subdivision.

* NB Effective December 21, 2029

4. No funds voted by a district meeting or other competent authority in any school district to which the provisions of subdivision one of this section are applicable, exceeding the amounts specified in such subdivision, shall be expended by the trustees or board of education until the commissioner of education shall certify that the plans and specifications for the same comply with the provisions of this section.

5. In a city having a population of one million or more, all designing, draughting and inspecting necessary in connection with the construction, additions to, alterations and maintenance of schoolhouses shall be performed by a bureau established and maintained for this purpose under the board of education. The work of this bureau shall be performed by civil service employees in the classified civil service under the direction of the superintendent of school buildings, design and construction, except that repairs, betterment and maintenance of heating and ventilating plants and equipment, elevators and mechanical equipment shall remain under the direction of the superintendent of plant operation and maintenance. In a special case upon approval of the board of estimate, such designing, draughting or inspecting may be

otherwise performed.

6. The commissioner may promulgate regulations relating to the purchase of existing school buildings. Such regulations shall provide for an appraisal of such buildings as school buildings and the land on which they are situated as school sites by the commissioner of taxation and finance, such estimates of the cost of renovation and construction as may be necessary and limitations on the cost of acquisition and renovation, in taking into consideration the age and condition of such existing buildings, in relation to the estimated cost of constructing a new building containing comparable facilities. Such regulations may also require the prior approval of the commissioner of any renovations proposed to be made to such existing school buildings.

7. The commissioner shall issue guidance informing all school districts of the manner in which building aid may be utilized to support district-operated universal prekindergarten programs pursuant to sections thirty-six hundred two-e and thirty-six hundred two-ee of this chapter.