



February X, 2023

District  
Superintendent  
Superintendent email

Section 9 of Part A of Chapter 56 of the Laws of 2022 amends Education Law §3602(6)(k) relating to building aid penalties due to delinquent submission of final cost reports by school districts, where such penalty was recouped by the state after July 1, 2013. The law provides the Commissioner the authority to consider these expenses as valid and eligible for aid under certain conditions.

Under this provision, for such expenses to be considered valid the following criteria must be met:

- (a) such school district submitted the late or missing final building cost report to the commissioner;
- (b) such cost report is approved by the commissioner;
- (c) all state funds expended by the school district, as documented in such cost report, were properly expended for such building project in accordance with the terms and conditions for such project as approved by the commissioner; and
- (d) the failure to submit such report in a timely manner was an inadvertent administrative or ministerial oversight by the school district, and there is no evidence of any fraudulent or other improper intent by such district.

We have reviewed our records and uncovered that no penalties were taken for delinquent submission of final cost reports after July 1, 2013.

If you believe this information is in error, or penalties were taken by the Department over the time prior covered by this provision of law, provide the project number, commissioner's approval date, and penalty amount to [buildingforms@nysed.gov](mailto:buildingforms@nysed.gov).

**Penalties considered by the Department to be valid for forgiveness after the last scheduled aid payment in the year in which the penalty was taken will be placed on the prior year claims list, as required by Education Law §3604(5).<sup>1</sup> Funds appropriated for the prior year claims list are provided sequentially, in the order that it has been approved for payment by the commissioner. The 2022-23 enacted state budget was the second year in which no funding was provided to satisfy new or existing claims on this list.**

If you have questions about the process, please contact Caylyn Agans at (518) 474-2977 or reach out to [buildingforms@nysed.gov](mailto:buildingforms@nysed.gov).

Thank you,

State Aid Office

<sup>1</sup> For more information, see State Aid memo titled "Payment Schedule and Policy Regarding Aid Adjustments occurring after the last scheduled aid payments for a given year" available at: [https://stateaid.nysed.gov/payment/htm\\_docs/payadj99.htm](https://stateaid.nysed.gov/payment/htm_docs/payadj99.htm)