**Section 180.70 Variances and Waivers**

a) When a requirement or standard set forth in any code incorporated by Section 180.60 cannot be satisfied, a school board may apply for a waiver of that requirement or standard pursuant to Section 2-3.25g of the School Code and the State Board's rules at 23 Ill. Adm. Code 1.100.

b) Except as limited by subsection (b)(3) of this Section, when a requirement or standard set forth in any code incorporated herein can be satisfied by an alternative means, a school board (or the district superintendent, if such authority is delegated by the school board) may apply for a variance as defined in Section 180.30 of this Part.

1) The affected facility must have been surveyed by a licensed design professional.

2) The architect or engineer conducting the survey shall certify and document in what particular respects the proposed alternative provides performance or protection equal or superior to that provided by the code requirement(s) from which a variance is sought.

3) The requirements relative to sprinkler systems set forth in Section 180.250 of this Part may not be varied pursuant to this subsection (b). Waivers or modifications of those requirements may only be requested pursuant to Section 2-3.25g of the School Code and the State Board's rules at 23 Ill. Adm. Code 1.100.

c) Procedure for Obtaining Variances

1) An authorized representative of the board of education shall complete and submit an application for approval of a variance to the State Superintendent through the regional superintendent.

2) An application shall:

A) Describe the variance or variances being sought;

B) Identify the board of education seeking the variance, the basis upon which it is seeking the variance, and the facility for which each variance is being sought;

C) Attest that the variance is being submitted pursuant to authority granted by the board of education;

D) Indicate the date upon which the board of education adopted a resolution to seek the variance;

E) Indicate the specific rule from which each variance is sought;

F) Include, by attachment, the statements, supporting documents, and certification of the architect or engineer who surveyed the facility; and

G) Be signed by an authorized representative of the board.

3) Upon receipt of an application for approval of a variance or variances, the regional superintendent shall record the identifying information, the date of submission, and the subject rule or rules in his or her records and forward the application, his or her recommendation regarding each variance's approval, and supporting materials to the State Superintendent.

4) Upon receipt of the application for approval of a variance or variances, the State Superintendent may appoint a technical review panel which will review the application and supporting materials, recommend approval or denial of each variance, and recommend any special conditions under which approval should be granted.

5) For each requested variance, the State Superintendent shall issue either a letter indicating approval, the date, and any special conditions, or a letter of denial. He or she shall return the application, supporting materials, and letter of approval or denial to the regional superintendent for processing and forwarding to the board of education.

6) Upon receipt of the State Superintendent's decision, the regional superintendent shall amend his or her records to reflect the conditions and particulars of approval, if approved; or proceed with enforcement of the code if disapproved; and forward the documents to the district originating the application for implementation.

d) Variances shall be subject to review and revocation:

1) In conjunction with any substantial repair, alteration, new construction, or change in use that may affect the conditions upon which the variance was granted;

2) If material facts upon which the variance was based change or are found to be false or erroneous;

3) In the course of review and approval of the next decennial survey conducted in accordance with Subpart D of this Part; or

4) When a code is amended to incorporate the substance of a variance.

(Source: Amended at 29 Ill. Reg. 15904, effective October 3, 2005)