

Charter Schools Handbook

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The University of the State of New York
The State Education Department

Charter Schools Handbook

The Office of Facilities Planning

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PREFACE

Pursuant to Section 2853 of the Education Law, as amended by L 2010, Ch 101, any charter school located outside of New York City, which is chartered after **July 31, 2010**, falls under the jurisdiction of the New York State Education Department (NYSED) Office of Facilities Planning (OFP). For charter schools which fall under the jurisdiction of NYSED, “the department shall approve plans and specifications and issue certificates of occupancy for such charter schools. Such charter schools shall comply with all department health, sanitary, and safety requirements applicable to facilities and shall be treated the same as other public schools for purposes of local zoning, land use regulation and building code compliance.”

Charter schools which fall under this jurisdiction must obtain a Certificate of Occupancy (CO) from OFP for any facility the school intends to occupy, whether permanently or temporarily, and whether by purchase or by lease. For owned buildings, a Certificate of Occupancy must be obtained from OFP. For leased buildings, two Certificates of Occupancy must be obtained: one from the local code enforcement entity and one from NYSED OFP. It is critical that charter schools submit a Letter of Intent (LOI) to OFP as early as possible in the process of obtaining a certificate of occupancy. Complete submission of all required project documents should be submitted to OFP a minimum of six (6) months prior to planned occupancy.

Charter schools falling under OFP’s jurisdiction must also seek approval from OFP a minimum of six (6) months in advance for any of the following changes:

- construction requiring a Building Permit
- signing a lease extension
- expansion to additional areas of an existing building
- purchasing a building that was previously leased
- any change of usage (i.e. changing from admin to instructional or vice versa).

These requirements apply to all buildings occupied by the school, including those not used for instruction (i.e., administrative buildings, storage buildings, etc.).

OFP must also be notified if an owned building is sold or if the school moves out of a leased space.

Charter schools falling under OFP’s jurisdiction must comply with the NYSED Manual of Planning Standards. The standards are in addition to the New York State Uniform Fire Prevention and Building Code and can be accessed here: [2022 MPS](#). For leased spaces, please pay special attention to Appendix E.

For details about which construction projects require a Building Permit and submission requirements, please access our Instruction Guide for Obtaining Building Permits at: https://www.p12.nysed.gov/facplan/publicat/BP_instruction_guide.PDF

Please note that the Office of Facilities Planning will not expedite requests for a CO for schools that fail to submit in line with the above timeframe without a valid justification for the delay. An acceptable request for expedited review would need to clearly justify the reasons as to why a submission could not have been made sooner, due to reasons beyond the control of the charter school, and the urgency of an expedited review and approval. A school’s lack of awareness of the required timeline will not be considered a valid justification. Further, the chartering entity (NYSED Charter School Office or the State University of New York) will not issue a Consent to Open without the appropriate Certificate(s) of Occupancy. For an owned building, a valid CO from NYSED is required. For a leased space, valid COs from both the local code enforcement entity and NYSED are required.

For information about a project’s status, and to view updated wait times as they apply to our review queue, please visit our webpage at <https://www.p12.nysed.gov/facplan/status.html>
Please reach out to Michael.Kosar@nysed.gov or EMSCFP@nysed.gov with any questions.

REQUIREMENTS FOR PROJECT SUBMISSION AND DOCUMENTATION

1. CHARTER SCHOOL LEASING A BUILDING

- a. The original lease of the building begins with submitting a New Project request in the Facilities Planning – Fire Safety / Project Management application in the School Business Portal. Instructions for submission can be found:
https://www.p12.nysed.gov/facplan/documents/PMIS/PMIS_DistrictUsersGuide_May2025.pdf
- b. Once you submit the New Project Request and receive a project control number back from our office (e.g. xx-xx-xx-xx-x-001-001), submit the following in hard copy (you may also send electronic copies to the Fiscal Associate if you wish, but hard copies must be mailed in):
 - 1) Long Range Plan/Explanation of Need and Summary of Buildings
 - 2) FP-AU(INST) or FP-AU(NON-INST) Form (located on our website at <https://www.p12.nysed.gov/facplan/SubInfo.htm>) and accompanying documentation
 - Page 2 of this form has a checklist of all the requirements for the Architectural and Engineering Reviews
 - 3) Copy of the Lease Agreement, which must contain an escape clause should the building not be approved by NYSED
 - 4) Attorney Certification which must contain the following attestations:
 - The attorney has reviewed the facility agreement
 - The Board has taken the proper procedural steps to authorize the lease
 - The initial term of the lease does not exceed the period of probable usefulness
 - 5) Board Resolution approving the lease pending SED approval
 - 6) Board Resolution approving the construction (if there is construction and it is being paid for by the Charter School)
- c. When any applicable alterations or construction has been completed, the following documents shall be submitted to this office prior to occupying the above referenced facility:
 - 1) SED Certificate of Substantial Completion to confirm the alterations were completed in accordance with construction documents reviewed by this office;
 - 2) One copy of the Certificate of Occupancy issued by the local code authority having jurisdiction; and
 - 3) One copy of the Public-School Fire Safety Report completed pursuant to an inspection performed after alterations have been completed.
- d. When the above documents (available here: <https://www.p12.nysed.gov/facplan/SubInfo.htm>) have been received, reviewed and approved, NYSED will issue a Certificate of Occupancy for the above referenced facility.

2. LEASE EXPANSIONS (TO DIFFERENT FLOORS OR DIFFERENT BUILDINGS)

- a. Leases will often begin with the charter school operating on one floor, and then expanding to additional floors in the subsequent years of the lease. Charter schools must submit to OFP to get the newly utilized spaces reviewed and approved, even if these expansions were authorized in the original lease that was approved. SED Architects and Engineers will be looking at plans at the time of original approval that will likely be modified (and possibly involve construction) as the charter school expands to different floors of the building, and this may involve change of usage of the floors and spaces. Submission requirements are the same as listed above for a lease submission.

3. LEASE EXTENSIONS BEYOND ORIGINAL

- a. Lease extensions need to be submitted to our office for review and approval each time an extension is being sought. Updated plans will be required if there are any proposed changes to the floor plans, and will be required if there is a change of use for spaces (i.e., admin spaces becoming instructional spaces).
- b. Lease extensions that do not result in any changes to the floor plans, no additional spaces being added, and do not involve construction would only go through a Fiscal review, as the Architects and Engineers have previously reviewed and approved those spaces.

4. CHARTER SCHOOL PURCHASES A BUILDING – NO CONSTRUCTION REQUIRED

- a. Submit a New Project request in the Facilities Planning – Fire Safety / Project Management application in the School Business Portal for a New Acquisition project type. Instructions for submission can be found here:
https://www.p12.nysed.gov/facplan/documents/PMIS/PMIS_DistrictUsersGuide_May2025.pdf
For new buildings that do not require construction to obtain a Certificate of Occupancy, submit a Application for Use - Instructional Building form (FP-AU(INST)) for instructional buildings, or a Application for Use - Non-Instructional Building (FP-AU(NON-INST)) for non-instructional buildings. Forms are available: <https://www.p12.nysed.gov/facplan/SubInfo.htm>
- b. Full requirements for submissions are included in the forms above, but it should be noted that the following items are required as part of an Application for Use submission (either FP-AU(INST) or FP-AU(NON-INST), depending on use):
 - 1) Site Plan
 - 2) Architectural quality floor plans and code compliance plans
 - 3) Mechanical, Electrical, Plumbing, and Fire Suppression plans
 - 4) Asbestos Hazard Emergency Response Act (AHERA) Management Plan
 - 5) Certification by a NYS licensed architect or engineer that the whole building as well as the space being used complies with applicable provisions of the NYS Codes.
 - 6) Public School Fire Safety Report
 - 7) Board Resolution approving the purchase of the building and the associated costs.

5. CHARTER SCHOOL PURCHASES A BUILDING – CONSTRUCTION REQUIRED TO OBTAIN CERTIFICATE OF OCCUPANCY

- a. The charter school must submit two (2) simultaneous New Project Requests in the Facilities Planning – Fire Safety / Project Management application in the School Business Portal. Instructions for submission can be found here:
https://www.p12.nysed.gov/facplan/documents/PMIS/PMIS_DistrictUsersGuide_May2025.pdf
 - 1) The first New Project Request will be for a New Acquisition project type.
 - 2) The second New Project Request will be for an Addition/Alteration/Reconstruction project.
- b. The first project utilized the Application for Use form and associated documents (either FP-AU(INST) or FP-AU(NON-INST), depending on use). Please follow the requirements as outlined above for the purchase of a new building.
- c. The second project is a permit request for the construction work. The following is required:
 - 1) FP-CL Checklist Form and all accompanying documentation from the Final Submission Forms Workbook, found here: <https://www.p12.nysed.gov/facplan/SubInfo.htm>
 - 2) SEQRA Resolution if charter school is the lead agency
 - 3) Board Resolution approving the purchase of the building and the associated costs.
 - 4) Long Range Plan
 - 5) Form FP-S for site approval

- 6) Architectural quality floor plans and specifications detailing the proposed construction (stamped by a NYS licensed architect or engineer)

NOTE: A Final Submission Forms Workbook Guidance Document is available at:

[FinalSubmissionFormsWorkbookPP11-22-2021_000.pptx](#)

6. CHARTER SCHOOL PURCHASES A CURRENTLY LEASED BUILDING

- a. The charter school must submit a New Project Request in the Facilities Planning – Fire Safety / Project Management application in the School Business Portal for a New Acquisition project type. Instructions for submission can be found here:
https://www.p12.nysed.gov/facplan/documents/PMIS/PMIS_DistrictUsersGuide_May2025.pdf
- b. The charter school must indicate the change from leased to owned in an email sent to the following three email addresses: EMSCFP@nysed.gov, Michael.Kosar@nysed.gov, and FireSafety@nysed.gov. Documentation confirming the purchase should also be provided within this notification email. This includes a copy of the purchasing agreement/contract of sale and a board resolution approving the purchase.
- c. The SED Fiscal Associate will respond with directions. If the lease approval was granted within the past 3 years and no additional space will be purchased AND no alterations are intended, then only a new Fire Safety Report will be required. If the purchase includes additional space that was not reviewed as part of the lease approval, or alterations are intended, then additional submission items will be required.

7. CHANGE OF USE

- a. The Charter School must notify OFP if there is a change of use with the building, in whole or in part. The most likely example would be a change from instructional to administrative use, or vice versa. Guidance on submission requirements will be provided based on the specifics of the intended change.

8. BUILDING CLOSURE

- a. The Charter School must notify OFP if a building is closed. Please send an email to the following three email addresses: EMSCFP@nysed.gov, Michael.Kosar@nysed.gov, and FireSafety@nysed.gov

LINKS AND RESOURCES

New York State Education Department Office of Facilities Planning Website

- <https://www.p12.nysed.gov/facplan/>

Office of Facilities Planning Forms and Checklists Subpage

- <https://www.p12.nysed.gov/facplan/SubInfo.htm>

Revised 2022 Manual of Planning Standards

- https://www.p12.nysed.gov/facplan/documents/MPS_2022_FINAL_Revised_03-29-2023.pdf

New York State Education Department Charter School Office Website

- <https://www.nysed.gov/charter-schools>

SUNY Charter Schools Institute

- <https://www.newyorkcharters.org/charter-schools/>

New York State Education Department State Aid Office Webpage for Charter Schools

- <https://stateaid.nysed.gov/charter/>

Applicable Law and Regulation

- https://newyork.public.law/laws/n.y._education_law_section_2853
- https://assembly.state.ny.us/leg/?default_fld=&leg_video=&bn=A11310&term=2009&Summary=Y&Actions=Y&Memo=Y&Text=Y