

# BOCES Lease Requirements

<p><b>New or Multi-Year Lease from a School District</b></p> <ol style="list-style-type: none"><li>1. <a href="#">Form A</a>- if there are special education students in the space</li><li>2. Lease Agreement</li><li>3. Attorney Certification (not required for annual classroom leases)</li><li>4. BOCES Board Resolution</li></ol> <p>A project # will not be issued for this lease in our system.</p> <p>These items must be emailed to the Fiscal Associate to be processed.</p> <p>Capital construction work on School District owned buildings must be submitted to OFP by the school district.</p> <p>Annual classroom leases should be submitted to OFP for a new lease and then renewed in SAMS.</p>	<p><b>BOCES Lease from a Private Entity</b></p> <ol style="list-style-type: none"><li>1. New Project Request (completed in the <a href="#">Facilities Planning - Fire Safety / Project Management application</a>)</li><li>2. <a href="#">Form A</a>- if there are special education students in the space</li><li>3. Lease Agreement</li><li>4. Attorney Certification</li><li>5. BOCES Board Resolution</li><li>6. FP-AU Form</li></ol> <p>A project # will be issued for this lease as a technical review and compliance with the Manual of Planning Standards is required.</p> <p>These items must be emailed to OFP in order to receive a review # and get placed into our queue.</p>
<p><b>BOCES Lease Amendments</b></p> <ol style="list-style-type: none"><li>1. <a href="#">New Project Request</a> (if adding new space)</li><li>2. Updated <a href="#">Form A</a> (if adding new space) - if there are special education students in the space</li><li>3. Updated FP-AU (if adding new space)</li><li>4. Lease Amendment</li><li>5. Attorney Certification</li><li>6. BOCES Board Resolution</li></ol> <p>A project # will be issued for this lease if it is from a private entity and new space is being added as a technical review is required.</p> <p>These items must be emailed to OFP with the FP-AU submission.</p> <p>If no new space, these items can be mailed or emailed to the Fiscal Associate.</p>	<p><b>BOCES Lease Renewals</b></p> <ol style="list-style-type: none"><li>1. Lease Agreement</li><li>2. Attorney Certification</li><li>3. BOCES Board Resolution</li></ol> <p>As long as nothing in the lease agreement has changed except for the lease term, a Form A and FP-AU form are not required.</p>

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<b>Lease Agreement</b>	<b>Attorney Certification</b>
<p>The lease agreement must contain:</p> <ul style="list-style-type: none"><li>• the complete legal names and addresses of all parties and of the leased property;</li><li>• the lease term;</li><li>• the amount, frequency and due dates for lease payments;</li><li>• the charge basis, whether for all or part of the property and whether per room, per square foot or other basis;</li><li>• a description of the property and its intended use;</li><li>• list of any services to be furnished by the landlord, including an agreement as to which party will pay utility costs and assessments; and</li><li>• signatures—all leases shall be submitted in executed form, properly dated and signed by agents authorized to act for the landlord, the board and any other party.</li></ul>	<p>The attorney certification must contain:</p> <ul style="list-style-type: none"><li>• the attorney is attorney for the board or has been hired as attorney for the purpose of reviewing the lease and any related legal documents and for preparing the certification;</li><li>• the board has taken proper procedural steps to authorize the lease and any changes thereto;</li><li>• a determination has been made as to whether the lease is subordinate to any existing or future mortgages or the subject of any pending litigation;</li><li>• all of the provisions of the lease required or authorized by this section have been examined and conform with Education Law and Regulations of the Commissioner of Education; and</li><li>• the lease is valid and legally binding under general principles of the Real Property Law.</li></ul>
<b>Board Resolution</b> <p>The board shall adopt a resolution determining the following:</p> <ul style="list-style-type: none"><li>• the lease agreement is in best financial interests of the supervisory district and stating the basis of that determination;</li><li>• the rental payment shall not be more than the fair market value as determined by the board and provided to the commissioner;</li><li>• the board discloses any conflict of interest, or any other potential or perceived conflict of interest, to the commissioner, and in the event of a conflict of interest or a potential or perceived conflict of interest, provides detailed documentation to the commissioner demonstrating that the cost of the lease is not more than fair market value.</li></ul>	<b>BOCES Lease Laws &amp; Regulations</b> <p><b>Education Law:</b></p> <p>§ 1950- Establishment of boards of cooperative educational services pending the creation of intermediate districts.</p> <p><b>Commissioners Regulations:</b></p> <p>155.15- Leases and contracts for the use of property by boards of cooperative educational services</p> <p>155.14 Leasing of unneeded board of cooperative educational services facilities.</p>

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FP-AU Requirements	Leasing Out of BOCES Owned Space
<p>To better align with our current submission requirements, the FP-AU form has been replaced by two forms:</p> <ul style="list-style-type: none"><li>• <a href="#">FP-AU (INSTR)</a></li><li>• <a href="#">FP-AU (NON-INSTR)</a></li></ul> <p>Also required:</p> <ul style="list-style-type: none"><li>• <a href="#">Fire Safety Report</a></li><li>• Certification by an Architect or Engineer</li><li>• Architectural-quality floor plan(s)</li><li>• Architectural-quality site</li><li>• AHERA management plan</li><li>• Current certificate of occupancy</li></ul>	<p>BOCES can lease unneeded facilities to public or private agencies, individuals, partnerships, or corporations, with the approval of the commissioner of education, and for a term not to exceed five years, which shall be renewable with the approval of the commissioner of education.</p> <ol style="list-style-type: none"><li>1. Lease Agreement</li><li>2. Board Resolution</li></ol>
<h3>BOCES Leasing Out- Lease Agreement</h3> <p>The lease agreement must contain:</p> <ul style="list-style-type: none"><li>• the amount of rental, which shall not be less than fair market value as determined by the board of cooperative educational services;</li><li>• the term of the lease, which shall not exceed five years;</li><li>• a statement of the operation and maintenance services to be provided by the BOCES for the facility during the term of the lease;</li><li>• a requirement that any improvements to the leased property by the tenant be approved by the board of cooperative educational services;</li><li>• indemnification of the BOCES against loss or liability as a result of a tenant's occupancy of a leased facility;</li><li>• a statement that such lease agreement will not become effective until approved by the Commissioner of Education; and</li><li>• any other clauses or appendices which the Commissioner of Education deems to be in the best interest of the BOCES.</li></ul>	<h3>BOCES Leasing Out- Board Resolution</h3> <p>The board shall adopt a resolution determining the following:</p> <ul style="list-style-type: none"><li>• the BOCES has made a study and does not anticipate a need for the leased property during the term of the proposed lease;</li><li>• that the annual amount of rental payment is not less than the fair market rental value as determined by such BOCES; and</li><li>• that such lease is in the best educational and financial interest of the board.</li></ul>