

BOCES Lease Requirements

New or Multi-Year Lease from a School District

1. [Form A](#)- if there are special education students in the space
2. Lease Agreement
3. Attorney Certification (not required for annual classroom leases)
4. BOCES Board Resolution

A project # will not be issued for this lease in our system.

These items must be emailed to the Fiscal Associate to be processed.

Capital construction work on School District owned buildings must be submitted to OFP by the school district.

Annual classroom leases should be submitted to OFP for a new lease and then renewed in SAMS.

BOCES Lease from a Private Entity

1. New Project Request (completed in the [Facilities Planning - Fire Safety / Project Management application](#))
2. [Form A](#)- if there are special education students in the space
3. Lease Agreement
4. Attorney Certification
5. BOCES Board Resolution
6. FP-AU Form

A project # will be issued for this lease as a technical review and compliance with the Manual of Planning Standards is required.

These items must be emailed to OFP in order to receive a review # and get placed into our queue.

BOCES Lease Amendments

1. [New Project Request](#) (if adding new space)
2. Updated [Form A](#) (if adding new space) - if there are special education students in the space
3. Updated FP-AU (if adding new space)
4. Lease Amendment
5. Attorney Certification
6. BOCES Board Resolution

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.

These items must be emailed to OFP with the FP-AU submission.

If no new space, these items can be mailed or emailed to the Fiscal Associate.

BOCES Lease Renewals

1. Lease Agreement
2. Attorney Certification
3. BOCES Board Resolution

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.

BOCES Lease Requirements

Lease Agreement

The lease agreement must contain:

- the complete legal names and addresses of all parties and of the leased property;
- the lease term;
- the amount, frequency and due dates for lease payments;
- the charge basis, whether for all or part of the property and whether per room, per square foot or other basis;
- a description of the property and its intended use;
- list of any services to be furnished by the landlord, including an agreement as to which party will pay utility costs and assessments; and
- 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.

Attorney Certification

The attorney certification must contain:

- 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;
- the board has taken proper procedural steps to authorize the lease and any changes thereto;
- 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;
- 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
- the lease is valid and legally binding under general principles of the Real Property Law.

Board Resolution

The board shall adopt a resolution determining the following:

- the lease agreement is in best financial interests of the supervisory district and stating the basis of that determination;
- the rental payment shall not be more than the fair market value as determined by the board and provided to the commissioner;
- 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.

BOCES Lease Laws & Regulations

Education Law:

§ 1950- Establishment of boards of cooperative educational services pending the creation of intermediate districts.

Commissioners Regulations:

155.15- Leases and contracts for the use of property by boards of cooperative educational services

155.14 Leasing of unneeded board of cooperative educational services facilities.

BOCES Lease Requirements

FP-AU Requirements

To better align with our current submission requirements, the FP-AU form has been replaced by two forms:

- [FP-AU \(INSTR\)](#)
- [FP-AU \(NON-INSTR\)](#)

Also required:

- [Fire Safety Report](#)
- Certification by an Architect or Engineer
- Architectural-quality floor plan(s)
- Architectural-quality site
- AHERA management plan
- Current certificate of occupancy

Leasing Out of BOCES Owned Space

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.

1. Lease Agreement
2. Board Resolution

BOCES Leasing Out- Lease Agreement

The lease agreement must contain:

- the amount of rental, which shall not be less than fair market value as determined by the board of cooperative educational services;
- the term of the lease, which shall not exceed five years;
- a statement of the operation and maintenance services to be provided by the BOCES for the facility during the term of the lease;
- a requirement that any improvements to the leased property by the tenant be approved by the board of cooperative educational services;
- indemnification of the BOCES against loss or liability as a result of a tenant's occupancy of a leased facility;
- a statement that such lease agreement will not become effective until approved by the Commissioner of Education; and
- any other clauses or appendices which the Commissioner of Education deems to be in the best interest of the BOCES.

BOCES Leasing Out- Board Resolution

The board shall adopt a resolution determining the following:

- the BOCES has made a study and does not anticipate a need for the leased property during the term of the proposed lease;
- that the annual amount of rental payment is not less than the fair market rental value as determined by such BOCES; and
- that such lease is in the best educational and financial interest of the board.