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Florida Department of Education

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Office of Educational Facilities

Facilities Requirements for Charter Schools in Florida

The 1996 Legislature approved **House Bill 403** which authorized charter schools in Florida. The bill was signed by the Governor on May 17, 1996. Under this law, private charter entities may enter into agreements with school boards to provide educational services to district students. The facilities in which these educational services are provided must meet minimum requirements as established in the Charter School Law.

Facilities Requirements as Stated in Statute

Section 1002.33(19), F.S., is entitled "FACILITIES." Sub-section (a) reads as follows:

"A startup charter school shall utilize facilities which comply with the Florida Building Code pursuant to Chapter 553 except for the State Requirements for Educational Facilities. Conversion charter schools shall utilize facilities that comply with the State Requirements for Educational Facilities provided that the school district and the charter school have entered into a mutual management plan for the reasonable maintenance of such facility. The mutual management plan shall contain a provision by which the district school board agrees to maintain charter school facilities in the same manner as its other public schools within the district. Charter schools, with the exception of conversion charter schools, are not required to comply, but may choose to comply, with the State Requirements for Educational Facilities of the Florida Building Code adopted pursuant to Section 1013.37. The local governing authority shall not adopt nor impose local building requirements or restrictions that are more stringent than those found in the Florida Building Code. The agency having jurisdiction for inspection of a facility and issuance of a certificate of occupancy shall be the local municipality or, if in an unincorporated area, the county governing authority,"

Section 1002.33(19)(c) reads as follows:

"Charter school facilities shall utilize facilities which comply with the Florida Building Code, pursuant to chapter 553, and the Florida Fire Prevention Code, pursuant to chapter 633."

Guidelines to Meet Statute

1. **The language of the statute may need interpretation. What does it mean?**
 - a. **Chapter 553** of the Florida Statutes identifies the state minimum building codes. **Chapter 633**, F.S., identifies the state minimum fire safety codes. All buildings in the state are required to meet these standards as a minimum. Each local jurisdiction may add more

restrictive requirements. The building codes are the Florida Building Code 2001, with 2002 Revisions, which includes Building, Plumbing, Mechanical, Fuel Gas, and Test Protocols for High Velocity Hurricane Zones. The state electrical standards are listed in **Section 553.19**, F.S. The state minimum fire safety standard is the Florida Fire Prevention Code, 2001.

- b. Privately owned or leased educational facilities must meet the requirements of the state minimum codes referenced in statute and local building department amendments.
- c. The Department of Education has historically provided additional requirements for school boards for public facilities designed primarily to be used by children, since the state minimum codes generally do not address the needs of children. The State Uniform Building Code for Public Educational Facilities Construction adopted pursuant to Section 1013.37, F.S., is incorporated in **Chapter 6A-2.001**, Florida Administrative Code, as an attachment entitled *State Requirements for Educational Facilities 2007 (SREF)*. Use of the *State Requirements for Educational Facilities* applies to school board-owned facilities which may be used as charter schools. This document can be accessed at: <http://www.fldoe.org/edfacil/> from the OEF web page.

2. Are charter school facilities public facilities or private facilities and how do you know which codes and standards to apply?

- a. This depends on the "owner" or lease-holder. If the charter school facility is a public school facility, and the property is not leased to the charter school entity, then the building would be considered public school property, should be insured by the public school board, and SREF applies to the upkeep and any modifications to the facility.
- b. If the facility is owned by or under lease to the charter entity, then the facility is private property; should be insured by the charter school entity; and the Florida Building Code and the Florida Fire Prevention Code, and local building departments are used when making modifications to the buildings.
- c. If school board property is leased to a charter school entity, and the property is insured by the charter school company, then the Florida Building Code and processes may be used in making modifications. However, the board may include in the lease that modifications must meet the requirements and processes for educational facilities as stated in **Chapter 1013**, F.S. If board owned, and if ultimately the building were again placed into use by the board, then the facility would have to be modified back to SREF standards before school board use.

3. How do you know when the building codes and fire codes identify a function as Educational Occupancy? And, in Section 1002.33(17)(a)5., F.S., a charter school must meet all applicable state and local health, safety, and civil rights requirements; how do these requirements apply?

- a. As referenced by the Charter School Law and **Chapter 633**, Florida Statutes, The Florida Fire Prevention Code, indicates that compliance with requirements for all Educational Occupancies (both public and private) are applicable to and include all facilities used for gatherings of six or more people for purposes of instruction through the twelfth grade, for four or more hours per day, or more than twelve hours per week. Local building departments require that when the use of an

existing space or building is changed because a new tenant occupies the lease, then the space must be modified to meet the building code requirements for that occupancy. For example, a commercial space constructed for shopping or as a restaurant would have to be modified and inspected to meet the requirements of building codes and fire safety codes for Educational Occupancies as identified by the local authority having jurisdiction, if a charter school were to lease and occupy that commercial space.

- b. State civil rights requirements include the federal law, the Americans With Disabilities Act (ADA), which is incorporated by reference in **Section 553, Part II**, 553.501 through 553.513, Florida Statutes. The Department of Community Affairs, Division of Building Codes and Standards, can provide a document with drawings and descriptions of the requirements of the federal and state laws on accessibility. The telephone number is (850) 487-1824.
 - c. Local Health Department requirements include minimum standards for occupancy with respect to general health and sanitation such as: standards for food service, drinking water, and sewer/sanitary facilities.
 - d. Local fire safety requirements would include fire marshal standards for initial occupancy and standards for annual fire safety inspections for compliance with The Florida Fire Prevention Code.
 - e. Prior to occupancy the Asbestos Hazard Emergency Response Act (**AHERA**), 40 CFR, Part 763, requires public and nonprofit private schools (K-12) to have a certified consultant inspect facilities for asbestos, unless the architect of record for a structure will sign a letter certifying that no asbestos was used in the construction of the building. An asbestos management plan must be available in the principal's office of each school. This act also requires periodic inspections by individuals certified to perform that function.
 - f. Also applicable are the Resource Conservation and Recovery Act (RCRA) 40 CFR Part 240 et. seq. and the Florida Resource Recovery and Management Act, Sections 62-730 and 62-731. Federal and Florida laws authorize the EPA to regulate hazardous waste from generation to disposal. Schools constructed, remodeled, or renovated should review the material safety data sheets (MSDS) for every chemical product used in these and the maintenance activities at each facility to be sure that all unused and waste chemical products are properly labeled. Records should be kept showing that RCRA requirements for storage, transport, emergency contingency plans, employee training, and proper disposal are met.
 - g. Chapter 62-737, FAC., regulates the disposal of mercury containing fluorescent light bulbs (tubes).
 - h. Florida Administrative Code, Section 10D-91.1303 - 1321, requires radon testing in all schools, both public and private (except some portable units).
 - i. The Occupational Safety and Health Act (**OSHA**), 29 CFR, Parts 1910 and 1926, and the Florida Right-to-Know Act, Rule Chapter 381-30, FAC., worker protection, includes teachers and others who work in educational facilities.
- 4. Should a facility be constructed or leased?**
- a. This will be a decision that the charter entity will need to make. Since Section 1002.33(7) of the Charter School Law requires that the term of the charter must not exceed 3, 4, or 5 years, many facilities for charter

- schools will probably be leased.
- b. Generally leased space is constructed to meet the state minimum building and fire codes for a specific occupancy group. Where buildings have been constructed as churches, shopping centers, or for other non-educational occupancies, they must be modified to meet the Educational Occupancy sections of the appropriate building code and fire safety code and then inspected for compliance to educational standards prior to occupancy.
5. **Should the services of an architect, engineer or contractor be used in the development of documents for construction or remodeling of the spaces, and in the review of the spaces being considered for lease?**
- a. Yes, it is recommended. Chapters 471, 481, and 489 of the Florida Statutes define the requirements when the services of these professionals are needed to assure public safety.
 - b. As a practical matter, these professionals are familiar with the building codes and fire codes, and can quickly prioritize your proposed locations for you with respect to efficient program space utilization, and the least amount of initial capital investment needed to meet fire safety and building code compliance requirements.
 - c. Local architects, engineers, and general contractors know the building code and fire code, and can assist in processing your construction plans through the review process.
 - d. School board or community college owned facilities used as a charter school may continue to follow the facilities requirements of Chapter 1033 of the Florida Statutes.
6. **Will zoning be important in considering the location of the charter school?**
- a. Yes. Schools are subject to local zoning laws.
7. **Who will inspect the facilities annually?**
1. The charter school entity will be responsible for providing or hiring companies to perform inspections as required.
 2. All facilities, including leased facilities, must be inspected annually by a fire marshal or inspection specialist trained and certified at the State Fire College in Ocala. Correction of identified deficiencies is required. Fire sprinklers, fire alarms, fire extinguishers, and other safety equipment require annual operational inspection and testing which is provided by service companies licensed for these inspections.
 3. Other inspections may include: DOH (formerly HRS) to inspect kitchens and related spaces; and the Department of Labor and Employment Security to inspect for OSHA compliance.

If you have additional questions, you may contact individuals in your local school district, your local building department, the local fire chief, or for state overview, the Department of Education, Office of Educational Facilities [phone (850) 245-0494].