

## GUIDE TO LEASING A FACILITY

### STEPS IN THE LEASING PROCESS

The following provides an overview of the steps involved in leasing a facility. If you have determined that leasing a facility is the right option for you at this point in time, keep in mind these additional steps.

#### Step 1. Determine Size and Space Needed

Whether leasing or purchasing a facility, you will have to determine how much space is needed to accommodate your school's current enrollment and future growth and to meet program needs and requirements. If you haven't already determined your space needs, **complete Step 1 in the Cost and Feasibility Workbook.**

Keep in mind future growth when selecting a site for your school. Having to move, because of student growth, can seem like a good way to keep rent costs down initially. However, even when done during the summer, moving is disruptive for your staff and students. Don't underestimate this drain on personnel and financial resources.

#### Step 2. Selecting a Site

Once you know how much space you will need, see the **Site Selection Guide** for important factors to consider when selecting a site. Included in the guide is a chart showing the pros and cons of various types of facilities. Use the **Site Assessment** tool to record important information as you visit sites and to assess the sites that you visit.

Keep the following points in mind when visiting and assessing sites:

- Is the site in your region(s) of residence?
- Is there adequate parking and bus access?
- Is there adequate outdoor space or a playground at the site or nearby?
- Are there other organizations nearby that the school can utilize such as a public

library, community center, theatre, etc.

- Are there sufficient bathroom facilities and appropriate sized fixtures for children? You may need to equip the facility with child sized fixtures.
- Are there repairs or renovations that need to be made? If so, are permits needed? Also, who will cover the cost of repairs/renovations?
- Is the site equipped with adequate wiring for computers, internet access, phone lines, etc?
- Does the owner provide access to the site after regular business hours for evening meetings and activities?
- What type of building security is available and who is the responsible party?
- Will you be sharing space with another organization? If so, you will need to coordinate schedules.

### **Step 3. Cost/Affordability**

- Rent for commercial/facility space is figured on a per square foot basis. The cost per square foot (cost psf) is the total rent divided by the total square feet. Compare the cost psf when looking at different sites. The rate will vary depending on the condition, amenities and location of the property.
- A rule of thumb is not to spend more than 20% of total income on your facility costs. Schools spending more than this will need to spend less on programs.
- Find out who is responsible for paying utilities, taxes, and insurance. If they are excluded, the lease rate may be called “**triple net**” which means that the school will be responsible for these costs.
- **Common Area Maintenance (CAM)** refers to space that is shared by two or more parties. If you are sharing the space with another organization, the cost for the use of the shared space as well as costs for building and site maintenance (such as lawn care, snow removal, custodial costs, etc.) of the shared space may also be shared by the tenants. The lease should specify who is responsible for these costs.

### **Step 4. Zoning**

Is the property zoned for educational use? If the space is not currently used for educational purposes you will need to request a change in zoning. Contact your local zoning officer.

## **Step 5. Environmental Requirements**

### **Approvals**

In January 2007, new laws were put into place that require schools in NJ to complete an environmental assessment and obtain approvals prior to the issuance of building permits and certificates of occupancy. The regulations require two separate approvals, one for the site issued by the Department of Environmental Protection (DEP) and one for the building interior issued by the Department of Health and Senior Services (DHSS). The regulation requires that prior to the issuance of building permits, a school must obtain either a No Further Action letter issued by the NJ DEP or a Remedial Action Workplan approved by the NJ DEP *and* certification from the DHSS that the site is safe or written remediation requirements set by the DHSS if remediation or further testing is required. If remedial work is required, the school will need to obtain a No Further Action letter from the DEP as well as a certification from the DHSS that remediation has been properly completed prior to issuance of a certificate of occupancy. In all cases a No Further Action letter from the DEP as well as certification from the DHSS that the site is safe is required prior to issuance of a certificate of occupancy. You will need to hire an environmental consultant to conduct a preliminary environmental assessment and to guide you through this process. At a minimum, your environmental study should include a search for leaking underground oil storage tanks (LUST), lead based paint, and asbestos.

### **Asbestos Management Plan**

As a charter school, you will be required to establish an Asbestos Management Plan (AMP) for each of your facilities, owned or leased. Development of an AMP includes identification of asbestos in the facility, hazards posed and a plan for management. You will need to hire an environmental consultant to conduct and develop the AMP.

## **Step 6. Inspections**

Each municipality will have different requirements regarding the approval of your school facility which are specific to that municipality. However, at a minimum the follow inspections will be required:

- **Fire Inspection**
- **Health/Sanitary Inspection**
- **Building Inspection**
- **NJ DOE County Superintendent Inspection**

**All of the above inspections and certificates must be issued before the school can occupy the facility**

### **Fire Inspection**

The site will need to meet fire safety codes and regulations. An inspection by the local fire inspector will indicate what changes or additions, if any, are needed to comply with fire codes. Some items that may be required include having the facility equipped with adequate fire/smoke alarm and detection system, manual pull boxes, fire extinguishers, fire escapes, and exit/emergency lighting. If the site is out of compliance you will need to contact a professional fire and alarm company to install the proper equipment and fixtures so that the site will comply with the fire codes. Upon completing the installations, the site will need to pass fire inspection and be issued a **Fire Safety Certificate for Educational Use**.

## Health Inspection

In New Jersey, the county has jurisdiction over health and sanitary inspections. In some counties, larger municipalities will have their own health department. Contact your county health department first. Requirements may vary by county/municipality. The following is an example of the key areas for school health inspections in Middlesex County

### School Kitchen

The main area of concern for health inspections is the school kitchen. In general, if you have a kitchen and are serving school lunches – whether hot or cold- you will need to meet certain requirements. The following outlines the general requirements:

- You will need to provide the health inspector with the school lunch menu. The menu items will be an indicator to the type of equipment that will be needed.
- A sink or dishwasher is required for cleaning dishes. For a sink, you must install a three compartment sink. A general rule is that the sink or dishwasher must be large enough to fit the largest cooking utensil used (such as a pot or tray).
- If dishes are washed in a sink, the hot water temperature must reach 120 degrees. If a dishwasher is used the temperature must reach 180 degrees at final rinse.
- You must show use of a sanitizer for dishes such as a bleach and water mixture
- You will need a separate hand wash sink in the kitchen for employees to wash their hands. The sink must be within close proximity to the main sink
- All food served for lunch must be from an approved source.
- Some towns require that someone on site attend a food handling course.

- You must have a separate utility sink for washing mops, etc. This can be in a location other than the kitchen.
- If the school is equipped with a gas stove or grill it must have proper ventilation to the outdoors.
- Refrigerator temperature must be under 45 degrees; freezers at 0 degrees.
- All kitchen floors and walls must be easily cleanable. For example no carpeting or unfinished concrete.
- All ceilings and walls must be finished. There should be no exposed pipes, wires, etc in kitchen.

### **Other areas for health inspection**

- **Garbage Disposal**

There should be proper disposal of garbage and regular scheduled pick-up of garbage/refuse. This includes adequate indoor garbage containers as well as adequate outdoor dumpsters.

- **Restroom Facilities**

The inspector will look to ensure proper compliance with building codes such as proper plumbing, adequate number of fixtures for the number of students as well as properly sized fixtures based on the students served. Bathroom facilities must also meet ADA code. There must be a separate bathroom for employees. As well there must be proper ventilation, hot and cold running water and paper towel dispensers or other hand drying system.

## **Building Inspection**

A **Certificate of Occupancy for Educational Use** will have to be issued for the school prior to the school occupying the facility. This requires an inspection by a local official/building inspector. The Certificate of Occupancy must specify educational use (C of O for E use). This inspection should be done after the fire and health inspections are completed.

## **NJ DOE County Superintendent Inspection**

The facility must be inspected and approved by the NJ DOE county superintendent. This can take place only after the building, fire and health inspections and certificates are issued.

It is best to engage the county superintendent early on and to keep them informed of your project. You may want them to visit earlier to identify any issues that could create delays if discovered at the last second.

The following gives the general guidelines for Middlesex County. Requirements may vary slightly by county so it is best to call your county DOE office for a detailed checklist.

- **Required Documentation**

Prior to occupancy, the school must have a certificate of occupancy, indicating current CO for E Use, and current fire and health inspection reports issued by local officials and on file in the office of the county superintendent of schools.

- **Safety Factors**

**Doors-** All exterior doors must be operable and free of obstruction. Doors on any occupied space must be free of dead bolts or slide bolts and permit exiting without use of a key. Doors opening into corridors must have unobstructed vision panels. Instructional space greater than 300 square feet must have a door opening into the corridor or an exit door opening to the exterior. The boiler room interior door must meet code and have proper signage. Doors leading to interior courtyards must be clearly marked: "Not an Emergency Exit"

**Floors:** Floors, walls and ceilings of rooms used for instruction must be free from holes, sags, moisture, peeling paint, plaster and potentially hazardous materials. Concrete/wood floors in all instructional areas, except shops, must be covered with a resilient floor covering. Floors must be clean and free of trash, and facilities must provide for disposal of trash.

**Electrical:** Switches, receptacles and junction boxes must be covered by securely fastened plates. Electrical wires must be completely enclosed or in surface mounted cabinets. Circuit breaker panels must be covered. Combustible items must be at a minimum of 36 inches from electrical power sources or equipment.

**Fire/Emergency:** This will be covered by the local fire inspection. The county inspection will check to ensure proper compliance. Will check for items such as proper fire detection system, emergency exits and lighting, proper corridor width, and adequate posting of emergency directions for exiting the facility.

**Health Office:** A health unit, (i.e.: nurse's area), meeting the requirements of 6A:26-6.3(b)9 must be provided. In addition, secure storage must be provided for medical records and medications.

**Heating & Ventilation-** Will check that rooms are at an appropriate temperature and that all instructional spaces have operating windows or adequate HVAC system. Air conditioning is required for windowless space.

- **Bathroom Facilities**

Bathroom facilities must meet code requirements. The inspector will check that bathroom facilities are within a reasonable distance from classrooms (not more than one floor away) and are equipped with an exterior operating window or ventilation. Toilet facilities must be provided for students in pre-kindergarten and kindergarten programs as per N.J.A.C. 6A:26-6.2(h)4.

- **Drinking Water**

At least one drinking fountain for each 50 students must be provided. Drinking fountains must be provided for students in pre-kindergarten and kindergarten programs as per N.J.A.C. 5:23-4.7.

- **Outdoor Play Area**

The outside recreational play area for students includes, but is not be limited to, sufficient space, equipment and safe surfaces. The grounds must be free of hazardous obstacles or traffic conditions. The playground area equipment must be in safe operating condition. Examples:

- a. Free of rust, jagged edges and protruding bolt/nut ends.
- b. Separated between units by space which is sufficient to provide safe passage when units are being used.
- c. Anchored with footings which are not exposed, cracked or loose in the ground. Soft composition provided at the base of playground equipment in order to prevent injuries.

Playground equipment must comply with NJAC 5:23-11 and school must maintain documentation of compliance and annual inspections

- **Instructional Space**

- The average ceiling height must be at least eight feet.
- There must be proper and adequate lighting.
- Each small group instructional space must be at least 10' X 10' and must provide at least 20 square feet of open floor area per pupil.
- Must have appropriate writing surface such as blackboard or whiteboard.
- Properly secured storage racks and furniture and equipment must be in good condition and suitable for the age and size of the students and purposes.

## **New Jersey Department of Education**

You should keep the DOE abreast of your facility plans. You will need to provide the DOE with a signed lease.

### **Step 7. Lease requirements/negotiations**

#### **Lease Agreement**

The lease agreement is a document that details the terms of the lease, including the amount to be paid (usually monthly) and security deposit (if any). It will also include the term (length) of the lease which specifies the starting and ending dates that the lease is in effect. It will also describe if the tenant has the option to renew the lease and how to do so. The following are some points to keep in mind:

- Your lease term should be no longer than your charter term (your landlord may require this). Some schools have made the lease renewable upon charter renewal.
- The lease should specify the type of notification you will receive prior to lease termination and whether or not there are options to renew the lease.
- How much and when rent will increase.
- The amount of space leased.
- Landlord and tenant responsibility regarding maintenance, utility, etc.

The agreement will include a description of the premises to be leased, use of the premises and restrictions and limitations, if any. It will also outline the responsibilities of both the tenant and the landlord including who is responsible for maintenance and repairs and payment of taxes, utilities and insurance. The tenant and landlord must sign the document to make it valid and in effect.

All real estate leases and related documents should be reviewed by your attorney. Phrases that seem straightforward (or confusing) can be important if you end up negotiating difficulties with your landlord.

## **Leasehold Improvements**

Leasehold improvements include any construction or improvements to the leased premises made by or for the tenant for the purpose of preparing the premises for a tenant. Generally part of the negotiations will include in some detail the improvement to be made to the leased premises by the landlord or tenant.

- Are there any restrictions on the type and amount of leasehold improvements that you can make to the property? Does the owner give you a leasehold improvement allowance?
- When doing leasehold improvements, remember that you cannot take them with you. Unless you have a long-term lease, be careful in the amount you spend.
- Will the owner provide a rent abatement clause? (This is typically a reduction in rent for a specified number of months, usually while the premise is being improved and the tenant is financing their own improvements.)
- Is there a subordination clause in the lease? For example, will the landlord provide? subordination to your lender for the purposes of financing leasehold improvements?

- When making leasehold improvements you must build to health and fire codes in the municipality as well as local building code for educational facilities.
- All leasehold improvements (whether completed by the school or landlord) in excess of the state required bidding allowance (currently \$21,000) will require you to follow public bidding procedures and payment of prevailing wages. See **Guide to Bidding and Prevailing Wages** document for additional information.

## **Other Considerations**

- Is there a purchase option at the end of the lease term?
- Can you sublet parts of the site to other parties (e.g. after school and tutoring programs)?

## **TECHNICAL TERMS INVOLVED WITH LEASING**

- **Lease Agreement:** The lease agreement is a document that details the terms of the lease, including the amount to be paid (usually monthly) and the dates when the lease is in effect.
- **Term of the Lease:** The lease agreement will identify the dates when the lease is in effect. It will also describe if the tenant has the option to renew the lease and how to do so.
- **Triple Net (NNN)** With a NNN lease the tenant is responsible for the payment of taxes, insurance and utilities (not included in lease payments). In other words, the lease payments are net of taxes, insurance and utilities.
- **Rent Abatement:** Rent abatement is a concession given by the landlord in the form of reduces or waived lease payment. For instance, a tenant might negotiate to receive three months free rent while the tenants are renovating the space at the tenant's expense. The rent abatement is in consideration for the expense incurred by the tenant.
- **Common Area Maintenance (CAM)**-Charges paid by the tenant for the upkeep of areas designated for use and benefit of all tenants. This can include stairways, hallways, parking lots, outdoor space, etc.

**NOTE: This document is meant to be a guide and should be used solely to ascertain a general understanding of the various issues and requirements involved in leasing a facility. Before any school undertakes a real estate project, executes a lease or enters into a contract to construct/renovate a facility, the school should seek the advice of legal council and a qualified architect.**