

COVID Project FAQs
NYS Education Department: Office of Facilities Planning
August 17, 2020

The following Q&A is intended to provide guidance on the placement of purchased shipping containers, tents, and modulars on district property; and leases not on district property.

1. Are districts permitted to lease structures on district sites?

Education Law 1709(7) does not currently permit the leasing of structures on district sites.

2. Is relief being sought?

Districts are encouraged to follow the OFP website for updates: <http://www.p12.nysed.gov/facplan/>

3. What other options do districts have?

The district may purchase the structures or receive them as donations and place them on the district site. Or, the district may lease property off the district's site.

4. What if my district decides to proceed without notifying NYSED?

See Building Permit Guidance: http://www.p12.nysed.gov/facplan/publicat/BP_instruction_guide.PDF: "Occupying or using any buildings without first getting a valid Certificate of Occupancy (C.O.) is not only illegal but is potentially dangerous to the occupants. It also places substantial liability on the district, the Superintendent and the Board of Education. In fact, the Superintendent of Schools could lose his/her credentials and the members of the Board of Education could be held personally liable under such circumstances." The review undertaken by NYSED as part of the process of obtaining a certificate of occupancy protects building occupants.

5. Which Letter of Intent (LOI) does a district submit for shipping containers, tents, and modulars it plans to place on its site? Is there a specific process?

The district submits LOIs for Manufactured Buildings to letterofintent@nysed.gov. LOIs are found in: http://www.p12.nysed.gov/facplan/documents/LOI_Forms_Workbook.xls. For COVID-19 Reopening related LOIs include in the email Subject line **COVID 19 REOPENING**. In the LOI's explanation text box, enter: **COVID 19 – Use of _____**, along with additional details. One LOI is submitted for each structure. If there are multiple LOIs, they may be submitted in one email. Once the Project Numbers are assigned, project letters will be sent to the district.

6. What does the district do when the Project Letters are received?

Once the district receives the Building and Project Numbers, project files are submitted. When submitting COVID-19 reopening projects, include a cover sheet, in large font, that only states: **COVID 19 REOPENING**. If multiple packets are being submitted simultaneously, staple individual structure documents together. Accurately complete and submit the FP-AU with the required support. Confirm that the School's Superintendent signed the FP-AU forms. Include the Project Number on all documents. The FP-AU is found at <http://www.p12.nysed.gov/facplan/documents/FP-AU.xls>.

7. What options are there for Floor Plans and Elevations?

Send the manufacturer's cut sheets of the structure showing the size, features, door, and (panic) hardware and venting. If the manufacturer's information is not available, provide a scaled floor plan indicating dimensions

for each structure. Include photographs of each exterior side. Photographs or manufacturer's information should clearly show compliant (panic/escape) door hardware and ventilation.

8. What instructions are there for Site Plans?

Indicate the location of each structure, including dimensions and distances from any adjacent buildings and property lines. The site plan can be a satellite/aerial picture indicating the locations of the building or a Site Sketch.

9. The district does not have an AHERA Report for each structure. How is this resolved?

If the district does not have the manufacturer's Asbestos Statement or AHERA report, hire an asbestos inspector to prepare an AHERA report. To locate an asbestos inspector, go to the following site: <https://www.labor.ny.gov/workerprotection/safetyhealth/active-asbestos-contractor-list.shtm>. If the site is not working correctly, try another browser.

10. What other requirements are there?

Submit the SEQRA Resolutions with corresponding BOE vote tallies and the SHPO Determination Letters with the SED Building Number. If Office of Parks, Recreation, and Historic Preservation provides the SHPO Determination Letter without the SED Project Number, request them to resend with it added. The application may be found in the Final Submissions Forms workbook: http://www.p12.nysed.gov/facplan/documents/Final_Submission_Forms_Workbook.xls

11. Can the district submit the FP-AU documents electronically?

The FP-AU and related documents may be uploaded on Dataflow/Laserfiche (D/LF). Follow the instructions found at <http://www.p12.nysed.gov/facplan/>. However, when the email is sent to emscfp@nysed.gov, state "SED Project #XX-XX-XX-XX-X-XXX-XXX **COVID 19 REOPENING**" instead of Ready for Prescreening. All queries about D/LF for NYSED may be sent to NYSEDSupport@goDataflow.com. The NYSED Support Team may be reached at 866.829.2821 or goDATAFLOW.com.

12. Will the district be notified that the projects are being reviewed or have been approved?

Yes, an OFP Architect or Engineer will be communicating with the district. Once approved, the structures may be installed.

13. What responsibilities does the district have upon completion of the installation?

After the installation is complete, obtain the Fire Safety Reports (FSR) and Final Certificates of Substantial Completion (FCSC). Ensure that the most recent form versions are being used, the correct building numbers are on the forms, and the forms are completed correctly. Submit PDFs of the Fire Safety Reports (FSR) and Certificates of Substantial Completion (CSC) (maximum 8-1/2x11 size) for occupancy of new buildings to firesafety@nysed.gov. After the building has been released on the FS Portal, the FS Team will contact the district to enter the FSR on the FS Portal and print the NYSED Certificate of Occupancy. Forms may be found at: FCSC: http://www.p12.nysed.gov/facplan/documents/FP_FCSC.xls
FSR: http://www.p12.nysed.gov/facplan/documents/PublicSchoolInspectionReportingForm_May_2020.pdf

14. Does the district have any other responsibilities?

Yes, submit the Final Cost Report (FCR) to complete the project's life cycle. The FCR may be found at: <http://www.p12.nysed.gov/facplan/documents/FinalCostReport.xls>

15. Is building aid available for COVID tent, storage containers, or modulars?

Currently, there is no building aid for these structures. Districts are encouraged to follow the OFP website for updates: <http://www.p12.nysed.gov/facplan/>

16. What if my district already leased structures and placed them on district property?

As a reminder, buildings must not be used prior to receiving a NYSED Certificate of Occupancy. Currently, Education Law 1709(7) does not permit the leasing on district property. Provide the building numbers, building names, and a description of the district's intent to remedy the situation: purchase, remove, etc. If purchasing, follow steps above to submit LOIs, FP-AUs, etc. to obtain the NYSED Certificates of Occupancy. If removing, provide evidence of the removal.

17. What if my district has previously placed structures on its site and does not have a NYSED Certificate of Occupancy for those structures?

If a project was previously submitted and approved, provide PDFs of the Fire Safety Report (FSR) and Final Certificate of Substantial Completion (FCSC) (maximum 8-1/2x11 size) to firesafety@nysed.gov. Ensure that the most recent form version is being used, correct building numbers are on the forms, and the forms are completed correctly. After the structures have been entered on the FS Portal, the FS Team will contact the district to enter the FSRs on the FS Portal and print the NYSED Certificates of Occupancy. Forms may be found at: FCSC: http://www.p12.nysed.gov/facplan/documents/FP_FCSC.xls
FSR: http://www.p12.nysed.gov/facplan/documents/PublicSchoolInspectionReportingForm_May_2020.pdf

If the district erroneously placed structures on its site without NYSED approval and now requires NYSED Certificates of Occupancy, obtain a satellite a map of each district site, indicate the SED Building Number of each structure at the site, if there are structures which do not have a SED Building Number, submit Letters of Intent (LOI) for Discovered Building to obtain the Building Numbers and associated Project Numbers. The LOI is found in: http://www.p12.nysed.gov/facplan/documents/LOI_Forms_Workbook.xls. Submit Letters of Intent to letterofintent@nysed.gov. Include on the LOI email Subject line **Discovered Building**. On the LOI, enter adequate details to distinguish each structure from other similar structures located throughout the district. Submit one LOI for each discovered building. If there are multiple LOIs, they may be submitted in one email. Once the Project Numbers are assigned, project letters will be sent to the district. Submit projects via the FP-AU process. After the structures are released on the FS Portal, the FS Team will contact the district to enter the FSRs on the FS Portal and print the NYSED Certificates of Occupancy.

18. My district has found sites off district property to lease for social distancing purposes. Is there lease aid available for COVID social distancing.

Currently, there is no Lease Aid for social distancing. It is recommended that districts follow the OFP website for updates: <http://www.p12.nysed.gov/facplan/>. Districts are encouraged to utilize available large spaces within existing instructional buildings such as gyms, cafeteria, libraries, and auditorium for extra instructional areas before seeking external locations.

19. Are there any issues regarding the leasing space off district property of which the district should be aware?

If the building will have a change of occupancy (such as a change from office or B-occupancy to E-occupancy), code requirements such as rescue windows, accessibility, fire protection systems such as sprinkler or emergency voice alarm communication systems, ventilation, etc. may make the lease unfeasible. If the owner does not have an AHERA report, the district may have an additional expense and delays in obtaining the report. See question 9 above.

20. Which Letter of Intent (LOI) does a district submit for off district property leases?

Please complete a Lease Space LOI for each site and send them via email to letterofintent@nysed.gov. LOIs are found at: http://www.p12.nysed.gov/facplan/documents/LOI_Forms_Workbook.xls. For COVID-19 Reopening related LOIs include on the email Subject line **COVID 19 REOPENING**. On the LOI, indicate that is for: **COVID 19 – Lease of _____**, along with additional details. One LOI is submitted for each leased site. If there are multiple LOIs, they may be submitted in one email. Once the Project Numbers are assigned, project letters will be sent to the district.

21. What does the district do when the Lease Project Letters are received?

Submit FP-AU and associated documents (architectural quality floor plan, site plan, AHERA Plan, Fire Safety Report), proposed lease agreement, BOE resolution authorizing the lease pending SED approval, updated district long range plan, justification, Local Code Authority Certificate of Occupancy, and certifications per 155.12: Attorney’s Certification and Superintendent’s Certification that the space was within the district or from a neighboring district and compliance with the Americans with Disabilities Act,. The justification should be brief: # students, limitations of existing space, COVID Social Distancing, etc.
[https://govt.westlaw.com/nycrr/Document/I3662e3bec22211ddb29d8bee567fca9f?viewType=FullText&originalContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/nycrr/Document/I3662e3bec22211ddb29d8bee567fca9f?viewType=FullText&originalContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

22. Can the district submit the FP-AU documents electronically?

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23. Will the district be notified that the projects are being reviewed or have been approved?

Yes, an OFP Architect or Engineer will be communicating with the district.