## Charter Schools - School Construction

The Charter School Law establishes the following for charter schools with respect to school construction:

- A charter school may be located in an existing public school building, in a part of an existing public school building, in space provided on a privately owned site, in a public building or in any other suitable location.
- 2. The legislation specifically permits charter schools to acquire property through purchase, lease, lease with the option to purchase or by gift. A charter school may construct a facility with state or local funds. State or local funds may also be used to purchase, lease, renovate or add onto an existing building. Charter schools, however, are not eligible for state reimbursement on construction projects.
- 3. The legislation requires construction projects and constructionrelated work on facilities used by charter schools to meet the following requirements:

Public School Code of 1949, as amended -

- Section 708 no school property is considered abandoned until authorized by the school
- Section 736 heating stoves must be jacketed by suitable material to protect pupils
- Section 737 school rooms must be adequately ventilated and furnished with thermometer
- Section 738 school buildings with 2 or more stories erected or leased by 1st class district must be of fireproof construction; for 2nd, 3rd & 4th class districts, school buildings more than two stories high must be of fireproof construction
- Section 739 entrance doors must open outward on any building used for public school purposes; for buildings erected after 5/1/25 or buildings leased or used for school purposes, all entrance and exit doors, as well as doors to regular, special and general use rooms must open outward
- Section 740 water closets or outhouses must be maintained
- Section 741 substrata evaluation is required on any proposed school building located in an area subject to mine subsidence
- Section 751 in general, requires public advertising, competitive bidding and separate contracts for all construction and renovation work on any school building where the total cost, including labor and materials, exceeds \$10,000 (see attached table on the actions required for various projects); the Department may waive the advertising requirements if a building or portion of a building becomes unusable due to an emergency; a school may not avoid the bidding requirements by contracting for work piecemeal. Public works must comply with "Steel Products Procurement Act." Enclosed is a table titled

- "Section 751 Action Required for Various Project Classifications" for further direction.
- Section 751.1 in general, prohibits any architect or engineer involved with the development of a project from bidding on that project
- Section 752 contracts must stipulate that competent and first class workmen are required
- Section 753 contract specifications must contain minimum wage information
- Section 755 contracts must prohibit discrimination against race, creed or color
- Sections 756 and 757 surety and performance bonds insofar as they are consistent with the Public Works Contractors' Bond Law of 1967
- Section 771 school required to display United States flag and provide instruction promoting an understanding of the American way of life
- Section 776 school property owned by any school that is occupied and used for school purposes is exempt from state and local taxes
- Section 777 person found guilty of defacing, injuring or destroying school property will be penalized accordingly
- Section 1 of the Act of May 1, 1913 (P.L.155, No.104) concerning separate specifications, bids and contracts, 53 P.S. § 1003
- Pennsylvania Prevailing Wage Act in general, requires prevailing wage rates, as determined by the Pennsylvania Department of Labor and Industry, on publicly funded projects where the total estimated cost is greater than \$25,000, 43 P.S. § 165-1 et seq.
- Public Works Contractors' Bond Law of 1967 in general, requires each contractor to provide performance, and labor and materials bonds, equal to 100% of the contract price, 8 P.S. § 191 et seq.
- Steel Products Procurement Act requires American-made steel to be used in projects where steel or steel products are specified, 73 P.S. § 1881 et seq.
- 4. The legislation specifically exempts charter schools from school facility regulations except the following, which pertain to the health and safety of the pupils:
  - State Board of Education Regulations, Section 21.72 schools must select the applicable construction codes and notify the Department of its selection; and
  - Department of Education Standards, Section 349.16 list of construction codes and professional guidelines (for example, the Council of Educational Facilities Planners, International (CEFPI), the American National Standards Institute (ANSI), and the Building Officials and Code Administrators (BOCA)) that may apply to school construction projects.

Enclosed is PDE-397, Charter School Construction Project - Compliance with School Health and Safety Regulations - Self-Certification Application, that must be completed for any planned work that may affect the health and safety of building occupants. The form must be submitted to the Division of School Facilities, 4th Floor, 333 Market Street, Harrisburg, PA 17126-0333 no later than three weeks before the bid opening date for the planned project.

5. Charter schools are advised to contact other state agencies, such as the Pennsylvania Departments of Labor and Industry, Transportation and Environmental Protection, as well as local municipalities, with jurisdiction over school construction prior to undertaking any projects to ensure their compliance with law and regulation.

The above information should serve as a <u>general</u> guide with respect to the legal requirements applicable to school construction projects initiated by charter schools. Please refer to the Public School Code of 1949, as amended, or the other referenced acts for specific requirements.

If there are questions about this information, please contact the Division of School Facilities at (717) 787-5480. However, questions of a legal nature should be referred to the solicitor for the charter school.

### HEALTH AND SAFETY ISSUES AFFECTING SCHOOL BUILDING USAGE

#### BUILDING SITE

- Rights-of-way, easements and utilities
- Location of flood plains, wetlands and other potential environmental problems
- Adjacent residential, commercial and industrial developments
- Pedestrian access to the building
- Student access to athletic fields and play areas from the building
- Location and orientation of athletic fields to sun's path
- Bus circulation for unloading and loading students
- Separation of bus traffic from other vehicular traffic
- Separate student drop off and pick up by private automobiles
- Location of, access to and parking for community use areas, such as athletic fields, cafeterias, gymnasiums and auditoriums

## SCHOOL BUILDING

- Location of major entrances to be used by students and community
- Facilities to be used by the community, including toilet areas, and the means of restricting access to the rest of the building
- Design simplicity and flexibility
- Energy conservation
- Accessibility for persons with disabilities
- Opportunities for student supervision
- Building security
- Construction and life cycle costs
- Access for cables, etc., for educational technology
- Location of areas for service delivery, recycling and waste removal

# SECTION 751 - ACTION REQUIRED FOR VARIOUS PROJECT CLASSIFICATIONS

TYPE OF PROJECT	PDE APPROVAL REQUIRED?	UNDER \$4,000 SOLICIT 3 QUOTES or ADVERTISE FOR BIDS?	\$4,000 - \$10,000 SOLICIT 3 QUOTES or ADVERTISE FOR BIDS?	OVER \$10,000  ADVERTISE FOR BIDS?	MAINTENANCE PERSONNEL \$5,000 LIMIT?
<pre>CONSTRUCTION: Athletic stadiums   or fields, auxiliary buildings   for storage, maintenance, buses,   etc.</pre>	NO	NO	YES	YES	YES
STRUCTURAL CHANGE: Moving or adding windows, doors, partitions; making additions or excavations.	NO	NO	YES	YES	YES
WORK WHICH MAY AFFECT SAFETY OR HEALTH: Construction, lighting, heating, ventilation, air conditioning, asbestos abatement, etc.	NO	NO	YES	YES	YES
WORK UNDER THE JURISDICTION OF ANOTHER AGENCY: Changes in existing water and sewage systems, kitchens, building use, exiting, etc.	NO	NO	YES	YES	YES
ORDINARY REPAIR: Plastering, replacing floors, improvement of school grounds, repairing and providing walks, roads, retaining walls, etc.	NO	NO	YES	YES	YES
MAINTENANCE BY DISTRICT PERSONNEL: Care, cleaning, servicing, and refinishing surfaces, equipment, and property.	NO	NO	NO	NO	NO
MAINTENANCE BY CONTRACTORS Care, cleaning, servicing, and refinishing surfaces, equipment, and property.	NO	NO	YES	YES	
SERVICE CONTRACTS: Equipment operation, normal maintenance.	NO	NO	NO*	NO*	
EMERGENCY: Fire, flood, unexpected structural or mechanical failure.	YES	NO	YES Unless waived by PDE	YES Unless	YES
RELOCATABLE (MODULAR) UNIT: Lease /Purchase or Purchase	NO	NO	YES	YES	YES
RELOCATABLE (MODULAR) UNIT: Lease	NO	NO	NO	NO	YES
WORK CONTRACTED AND DIRECTLY FUNDED BY AN INSURANCE COMPANY	NO	NO	NO	NO	

Notes: A "YES" indicates action is required. All amounts refer to total value of labor and materials per building.