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ABSTRACT

The New York State Department of Education provides the amendments to regulations of the Commissioner of Education concerning the Comprehensive Public School Building Safety Program effective May 7, 1999. Amended items include those involving the school district 5-year capital assets preservation facilities plan, building inspections, construction and remodeling of school district facilities, and building compliance regulations to conform with the public school safety program. Also addressed are statutes involving school construction safety and security, construction noise abatement, proper ventilation requirements, asbestos abatement, and educational facility report cards. (GR)

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New York State Dept. of Education
Draft Regulations for the Comprehensive Public School Building Safety Program

AMENDMENT TO REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 101, 207, 409-d, 409-e, 3602 and 3641 of the Education Law and Chapters 56 and 58 of the Laws of 1998.

1. Paragraph (4) of subdivision (a) of Section 155.1 of the Regulations of the Commissioner of Education is amended, effective May 7, 1999, to read as follows:

(4) Each school district shall prepare a five-year capital assets preservation facilities plan no later than July 1, 1988 January 1, 2000, and shall update such plan annually. Such plan shall be prepared in a manner and in a format prescribed by the commissioner and copies of such plan shall be submitted to the commissioner upon request. Such plan shall include, but shall not be limited to:

(i) a breakdown for each of the five years of the plan of the estimated expenses for the following:

(a) current or proposed new construction ranked in priority order;

(b) current or proposed additions to school facilities ranked in priority order;

(c) current or proposed alterations or reconstruction of school facilities ranked in priority order;

(d) major repairs ranked in priority order;

(e) operations and major system replacement and repairs, and maintenance ranked in priority order; and

(f) energy consumption;

(ii) a districtwide capital assets building inventory which shall include, but shall not be limited to:

(a) the number and type of facilities owned, operated or leased by the district;

(b) the age, enrollment, rated capacity, use, and size and the safety rating of such buildings as determined pursuant to the provisions of subdivision (c) of section 155.4 of this Part;

(c) the energy sources for such buildings; and

(d) probable useful life of each building and its major subsystems; and

(e) need for major system replacement and repairs, and maintenance; and

(f) summary of the triennial asbestos reports required pursuant to the Asbestos Hazard Emergency Response Act (AHERA) regulations, 40 CFR Part 763 (Code of Federal Regulations, 1998 Edition, Superintendent of Public Documents, U.S. Government Printing Office, Washington, DC 20402; 1998; available at Office of Facilities Planning, Education Building Annex, Room 1060, State Education Department, Albany, NY 12234); and

(g) any other information which may be deemed necessary by the commissioner to evaluate safety and health conditions in school facilities; and

(iii) . . .

2. Subdivision (d) of section 155.1 of the Regulations of the Commissioner of Education is amended, effective May 7, 1999, to read as follows:

(d) Inspection of Facilities. (1) Structural safety inspections. Structural safety inspections occurring on or before May 6, 1999 shall be conducted pursuant to the provisions of this subdivision. To insure that all facilities occupied by students are properly maintained and preserved and provide a suitable educational setting, the board of education of each school district shall cause such facilities owned by the

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district to be inspected in accordance with section 409-d of the Education Law and this paragraph. A visual inspection of structural elements of all school buildings occupied by students shall be conducted annually.

(i) . . .

(iii) . . .

(iv) . . .

3. Section 155.2 of the Regulations of the Commissioner of Education is amended, effective May 7, 1999, as follows:

Section 155.2 Construction and remodeling of school district facilities. (a) All plans, specifications and work regarding the erection, enlargement, repair, replacement, maintenance or remodeling of facilities of school districts and of boards of cooperative educational services shall comply with the Uniform Safety Standards for School Construction and Maintenance Projects as set forth in section 155.5 of this Part. Such uniform safety standards shall include but not be limited to: pre-construction testing and planning, exiting and ventilation, pre-construction notification, asbestos and lead protocols, control of dust, gases and fumes, protection from falling debris, and general safety and security.

(b) Plans and specifications for the erection, enlargement, repair or remodeling of facilities of school districts, other than in city school districts in cities having one million inhabitants or more, and of boards of cooperative educational services, shall be submitted to the commissioner when the contemplated construction costs of such work are $10,000 or more, and for all projects affecting the health and safety of pupils.

(1) . . .

(2) . . .

(3) . . .

(4) . . .

(5) . . .

(6) . . .

(b) (c) For remodeling or construction projects costing $5,000 or more, the governing body of a school district or a board of cooperative educational services shall assure compliance with the requirements of the State Uniform Fire Prevention and Building Code (9 NYCRR Parts 600 through 1250) and of this Part, and shall retain the services of an architect or engineer licensed to practice in New York State.

(c) (d) For remodeling or construction projects costing less than $5,000, the governing body of a school district or a board of cooperative educational services shall assure compliance with the requirements of the State Uniform Fire Prevention and Building Code (9 NYCRR Parts 600 through 1250) and of this Part.

(d) (e) (1) ...

(2) ...

3. Sections 155.3 through 155.17 of the Regulations of the Commissioner of Education are renumbered as sections 155.7 through 155.21, effective May 7, 1999, and new sections 155.3, 155.4, 155.5 and 155.6 are added, effective May 7, 1999, to read as follows:

155.3 Comprehensive public school safety program. To ensure that all buildings occupied by students and staff are properly maintained and preserved and provide suitable educational settings, the board of education of each school district and each board of cooperative educational services

shall cause all buildings which are owned, operated or leased by the district or board to comply with the provisions of the Comprehensive Public School Safety Program as set forth in this section and the Uniform Code of Public School Building Inspections, Safety Rating and Monitoring, as prescribed in section 155.4 of this Part. For purposes of this section and sections 155.4 through 155.7 of this Part, the term "board of cooperative educational services" shall be deemed to include a county vocational education and extension board. The Comprehensive Public School Safety Program shall consist of the following components:

(a) Building Condition Surveys. The board of education of each school district and each board of cooperative educational services shall develop building condition surveys for each school building in accordance with subdivision (4) of section 3641 of the education law and the provisions of paragraph (1) of subdivision (b) of section 155.4 of this Part.

(b) Annual visual inspections. The board of education of each school district and each board of cooperative educational services shall conduct annual visual inspections of each school building in accordance with the provisions of paragraph (2) of subdivision (b) of section 155.4 of this Part, provided that the board of education of each school district and each board of cooperative educational services shall implement a safety rating system for all school buildings pursuant to subdivision (c) of section 155.4 of this Part.

(c) Five year capital facilities plan. The board of education of each school district and each board of cooperative educational services shall develop a new five year capital facilities plan pursuant to paragraph (4) of subdivision (a) of section 155.1 of this Part or amend its existing plan to comply with such section, provided that in the case of a city school district in a city having a population of one million inhabitants or more, such plan shall also comply with section 2590-p of the Education Law. Every school district and board of cooperative educational services shall use the safety rating of each building in developing or amending its five year facilities plan. Where practicable, such plan shall identify critical maintenance needs.

(d) Monitoring system. The board of education of each school district and each board of cooperative educational services shall establish procedures to monitor the safety and condition of all school buildings in accordance with the provisions of subdivision (d) of section 155.4 of this Part.

(e) Waivers. The board of education of a school district or a board of cooperative educational services may apply to the commissioner for a waiver of the requirements of this section, or of any of the provisions of sections 155.4 or 155.5 of this Part, upon a finding that such district had in existence on April 28, 1998 school building safety inspection procedures which are in substantial compliance with such requirements. (1) Such waiver requests shall include:

(i) identification of the regulatory requirement from which a waiver is sought;

(ii) A copy of the building inspection procedures alleged to be in substantial compliance to such regulatory requirement, together with proof that such procedures were in effect on April 28, 1998; and

(iii) Where applicable, the names and qualifications of the inspectors carrying out such procedures; copies of previous reports under such procedures; and records of

actions taken to correct deficiencies identified using such procedures.

155.4 Uniform Code of Public School Building Inspections, Safety Rating and Monitoring.

(a) Short title and application. This section, promulgated pursuant to sections 409-d, 409-e, 3602(6) and (6-e) and 3641(4) of the Education Law, shall be known as the Uniform Code of Public School Building Inspections, Safety Rating and Monitoring (hereinafter referred to as "the Code"), and shall consist of three components: Procedures for Periodic Inspections, a Safety Rating System and a Monitoring System. The provisions of this section shall apply to all public school buildings, provided that nothing herein shall prevent a school district or board of cooperative educational services from adopting stricter local codes. Such local code must meet or surpass all requirements of the Code. Nothing herein shall affect a separate requirement to inspect and maintain school buildings pursuant to any other State or local law or regulation. In the case of conflicts between the Code and local codes, the commissioner shall make a determination as to which provisions shall apply.

(b) Procedures for Periodic Inspections. To insure that all facilities occupied by students are properly maintained and preserved and provide a suitable educational setting, the board of education of each school district shall cause such facilities owned or leased by the district to be assessed in accordance with sections 409-d and 409-e of the Education Law and this section, and, where applicable, section 807-a of the Education Law and section 155.8 of this Part. Buildings shall be assessed by a building condition survey conducted once every five years, an annual fire safety inspection conducted pursuant to section 807-a of the Education Law and section 155.8 of this Part or pursuant to local law or codes, and an annual visual inspection conducted in years in which no building condition survey is conducted for the building.

(1) Building Condition Surveys. A building condition survey shall be conducted for all school buildings on or before November 15, 1999 and at least every five years thereafter.

(i) The survey shall be conducted by a team that includes at least one licensed architect or engineer performing under a State contract.

(ii) The survey shall include, but not be limited to, a list of all program spaces and an inspection of the following building system components for evidence of movement, deterioration, structural failure, probable useful life, need for repair and maintenance and need for replacement:

(a) The building site, including utilities, paving, playgrounds, play fields and landscaping;

(b) Roofing;

(c) Exterior elements of the building, including walls, doors, windows, fire escapes;

(d) Building structural elements;

(e) Building interiors, including finishes, doors, and hardware;

(f) Electrical systems, including service and distribution, lighting, communications, technology infrastructure and cabling;

(g) Plumbing, including water distribution system, drainage system, and fixtures;

(h) Heating and cooling systems, including boilers, furnaces, terminal units, and control systems;

(i) Ventilation systems;

(j) Air conditioning systems, including refrigeration, terminal units, and control systems;

(k) Special construction, including stairs, elevators, escalators, and swimming pools;

(l) Fire protection and security systems, including alarm, detection and fire protection;

(m) Environmental factors, including appearance, cleanliness, acoustics, lighting quality, thermal comfort, humidity, ventilation and space adequacy; and

(n) Building systems that are identified as requiring more frequent monitoring by an architect or engineer or by the annual building inspection team.

(iii) Reports of such building condition surveys shall be submitted to the commissioner within 60 days of completion and a copy shall be retained in district files in accordance with the New York State Education Department State Archives and Records Administration Records Retention and Disposition Schedule ED-1, Public Property and Equipment, 8 NYCRR Section 185.12, Appendix I. Such reports shall be made available to the public on request.

(iv) Building aid computed pursuant to paragraph (d) of subdivision 6-e of section 3602 of the Education Law is available for building condition surveys conducted by a licensed architect or engineer if no claim for such a building condition survey in such a building has been filed in the previous five years. The apportionment of such building aid for each school building so inspected by a school district in the base year shall not exceed the lesser of the product of the building aid ratio and the actual cost, or the building condition survey aid ceiling computed by the commissioner. For aid payable in the 1999-2000 school year, the structural inspection aid ceiling shall be the product of 20 cents times the gross floor area of the building. For aid payable in the 2000-2001 school year and thereafter, the building condition survey aid ceiling shall be the product of 20 cents plus an additional amount times the gross area of the building. Such additional amount shall be the result obtained when the cost of labor and material index determined by the New York State Department of Labor for the month of July of the current year is divided by the cost index for July 1999 and the result is rounded to two decimal places.

(v) Reports of building condition surveys by the licensed architect or engineer shall be submitted to the commissioner by January 15, 2000 and January 15 of every fifth year thereafter. A claim for building aid shall be made in a form prescribed by the commissioner, within six months of the date of the architect or engineer report, for aid payable in the following school year.

(2) Annual Visual Inspections. (i) A visual inspection of every public school building shall be conducted annually provided, however, that a building condition survey conducted pursuant to paragraph (1) of this subdivision shall fulfill such requirement for the year in which such survey is conducted, and provided further that the commissioner may require more frequent inspections as deemed necessary to maintain the safety of school buildings and the welfare of their occupants.

(ii) The annual visual inspection shall consist of a visual re-inspection of the components of the building

condition survey for changes that may have occurred and a review and update of the safety rating as needed.

(iii) The annual visual inspection shall be conducted by a team composed of a person certified by the Department of State as a code enforcement official, or in the case of the City of New York, a person certified by the New York City Building Department as a local code enforcement official, and the district director of facilities or his or her designee.

(iv) If an annual visual inspection results in a determination that the building may have a deficiency that would result in a determination pursuant to subdivision (c) of this section that the safety rating of the building is unsatisfactory or unsafe/unhealthful, the board of education or board of cooperative educational services shall retain a licensed architect or engineer to perform a detailed inspection and develop a corrective action plan. In addition, the commissioner may require a board of education or board of cooperative educational services to conduct such a detailed inspection by a licensed architect or engineer where the commissioner determines that:

(a) the school district or board of cooperative educational services has provided insufficient spending for maintenance, repair or capital renewal of the building; or

(b) The school provides a poor learning environment pursuant to section 100.2(p) of this Title.

(v) The annual visual inspection shall be completed by November 15 of each year not scheduled for a building condition survey.

(vi) The results of the annual visual inspections, including the current safety rating of all buildings, shall be reported to the commissioner on forms prescribed by the commissioner, shall be signed by the person or persons who conducted the inspection and shall be filed with the commissioner within 60 days of completion of the inspection. Such reports shall indicate if more frequent inspections and repairs are necessary to protect the health and safety of students and staff occupying such school buildings.

(c) Safety Rating System. Each school district and board of cooperative educational services shall provide for the safety rating of all school buildings keyed to the structural integrity and overall safety of the building.

(1) The safety rating established by each district or board shall identify and assess the condition of every major system component of each school building based upon overall assessment of the system or element, probable useful life, structural integrity, overall safety, need for repair and maintenance, need for replacement, the estimated cost of necessary repairs and/or replacement, and assessment of the effectiveness of the building comprehensive maintenance plan required by paragraph (1) of subdivision (d) of this section.

(2) The major system components of each school building shall be rated in one of the following categories:

(i) Excellent: Identifies exemplar facilities. No remediation required, requires only routine maintenance as identified in the building comprehensive maintenance plan.

(ii) Satisfactory: System is functioning reliably but routine maintenance and repair required.

(iii) Unsatisfactory: System is functioning unreliably or has exceeded its useful life. A corrective action plan is in place and repairs or replacement have been scheduled.

(iv) Unsafe/Unhealthful: System is non-

functioning, unreliable or not functioning as designed. System endangers occupant health and/or safety, and/or has deficiencies that have resulted in serious accident or injury.

(v) Indeterminate: Requires additional probing or testing and a summary report will be issued, or drawings or specifications are required.

(3) Building system deficiencies shall be categorized as aesthetic, comfort, structural or health and safety.

(4) The overall building also shall be rated in one of the following categories:

(i) Exemplary: All systems rated in excellent condition. Preventive maintenance plan in place.

(ii) Good: All systems rated in good or better condition.

(iii) Unsatisfactory: Any system rated as unsatisfactory.

(iv) Unsafe/unhealthful: Any system rated unsafe and or unhealthful; annual fire inspection or certificate of occupancy has expired.

(d) Monitoring system. Boards of education and boards of cooperative educational services shall establish a process to monitor the condition of public school buildings in order to assure that they are safe and maintained in a state of good repair. Such process shall include the following elements:

(1) Every school building shall have a comprehensive maintenance plan for all major building systems to ensure the building is maintained in a state of good repair. Such plan shall be available for public inspection.

(2) The annual review and approval by the board of education or board of cooperative educational services of the annual building inspection reports and the five year building condition surveys.

(3) In the case of city school districts in cities having a population of 125,000 inhabitants or more, the annual review and approval by the board of education of district efforts for the care, custody, control and safekeeping of all school property as required by section 2554(4) of the Education Law.

(4) Procedures for assuring that an annual fire safety inspection of each building is conducted in accordance with section 807-a of the Education Law or applicable local laws or codes.

(5) Procedures for assuring that a current and valid certificate of occupancy is maintained for each building and posted in a conspicuous place.

(6) Procedures for investigation and disposition of complaints and for maintaining records of such complaints and their disposition. Such records shall be publicly available for inspection upon request.

(7) In the case of the New York City School District, the board of education shall report quarterly to the commissioner on the status of correcting violations issued by the New York City Department of Buildings. In addition, the board of education shall review the educational facilities master plan and determine whether the district will be able to restore all school buildings to a state of good repair by January 1, 2000, as required by section 2590-p of the Education Law.

(8) Every board of education and board of cooperative educational services shall take actions to

immediately remedy serious conditions affecting health and safety in school buildings, and shall report such actions to the commissioner.

(9) All school construction and maintenance activities shall comply with the Uniform Safety Standards for School Construction and Maintenance Projects as set forth in section 155.5 of this Part.

155.5 Uniform Safety Standards for School Construction and Maintenance Projects.

(a) Monitoring of construction and maintenance activities. The school building shall be monitored at all times during construction or maintenance activities for safety violations. Occupied areas of the building shall always comply with the minimum requirements necessary to maintain a certificate of occupancy. It is the responsibility of the board of education or board of cooperative educational services to assure that these standards are continuously maintained when the building or any portion thereof is occupied by district personnel or students during construction or maintenance projects. For the purposes of this section, "construction" shall mean construction, reconstruction, rehabilitation, renovation, improvement or repair of a school building.

(b) Investigation of complaints. Boards of education and boards of cooperative educational services shall:

(1) conspicuously post the name and telephone number of the contact person who is responsible for oversight of a school construction project; and

(2) establish procedures for the investigation and disposition of complaints concerning school construction or maintenance projects which, at a minimum, shall conform to the following requirements:

(i) Provide for a response in writing to all written complaints from individual parents of students attending the school, as well as the parents' association or public officials. Copies of all such correspondence shall be kept in a permanent project file.

(ii) Such written response shall describe:

(a) the investigations, inspections or tests made to verify the substance of the complaint, or a statement explaining why further investigations, inspections or tests are not necessary;

(b) the results of any investigations, inspections or tests which address the complaint;

(c) the actions, if any, taken to solve the problem; and

(d) the action, if any, taken to penalize the contractor if the complaint involved a violation of law or of a contract provision.

(iii) A copy of the response shall be forwarded to the Health and Safety Committee if one exists.

(c) Pre-construction testing and planning for construction projects. (1) Boards of education and boards of cooperative educational services shall assure that proper planning is made for safety of building occupants during construction. For all construction projects for which bids are issued on or after May 7, 1999, such boards shall assure that safety is addressed in the bid specifications and contract documents before contract documents are advertised for bid. All school areas to be disturbed during renovation or demolition shall be tested for lead, asbestos, and radon, or assumed to contain such materials, and appropriate procedures to protect health of building occupants

shall be included in the final construction documents for bidding.

(2) Boards of education and boards of cooperative educational services shall establish procedures for involvement of parents, students and teachers in monitoring safety in school construction projects through the convening of health and safety committees. Such committees shall, at a minimum, include parents, students, teachers, the facility director or chief custodian, and the school business official or his or her designee. Such committee shall meet periodically to review construction progress and address complaints or other issues related to health and safety.

(3) The district emergency management plan shall be updated to reflect any changes necessary to accommodate the construction process, including an updated emergency exit plan indicating temporary exits required due to construction. Emergency evacuation and relocation or release of students and staff during construction shall be planned.

(4) Fire drills shall be held to familiarize students and staff with temporary exits and revised emergency procedures whenever such temporary exits and revised emergency procedures are required.

(5) Where separation of construction areas from occupied spaces is required pursuant to subdivision (f) of this section, the district emergency plan shall also provide for the relocation of students and staff immediately upon a break in the required separation of construction areas and building occupants to minimize exposure of students and staff to contaminants.

(d) Pre-construction notification of construction projects. The board of education or board of cooperative educational services shall establish procedures for notification of parents, staff and the community in advance of a major construction project to be conducted in a school building while the building is occupied by students. Such procedures shall provide notice at least two months prior to the date on which construction is scheduled to begin, or the beginning of the semester in which construction is scheduled to begin, whichever is longer, provided that in the case of emergency construction projects, such notice shall be provided as far in advance of the start of construction as is practicable. Such notice shall include information on the district's obligations under this section to provide a safe school environment during construction projects. Such notice requirement may be met by such means as publication in district newsletters, direct mailings, or holding a public hearing on the project to inform parents, students, school personnel and community members. For purposes of this subdivision, a "major construction project" shall mean construction, reconstruction, rehabilitation, renovation, improvement or repair of a school building where the cost is $500,000 or more.

(e) General safety and security standards for construction projects.

(1) All construction materials shall be stored in a safe and secure manner.

(2) Fences around construction supplies or debris shall be maintained in useful condition.

(3) Gates shall always be locked unless a worker is in attendance to prevent unauthorized entry.

(4) During roofing or siding work, the sidewalks or areas immediately beneath the work site shall be covered or fenced off and provided with warning signs to prevent entry.

(5) Workers shall be required to wear photo-

identification badges at all times for identification and security purposes.

(f) Separation of construction areas from occupied spaces. Construction areas which are under the control of a contractor and therefore not occupied by district staff or students shall be separated from occupied areas as required by the New York State Uniform Fire Prevention and Building Code (9 NYCRR Parts 600 through 1250) or, in the case of cities of one million inhabitants or more, the local building code. School buildings occupied during a construction project shall maintain required health, safety and educational capabilities at all times that classes are in session.

(g) Maintaining exiting and ventilation during school construction projects. The following information shall be included in all plans and specifications for school building projects: A plan detailing how exiting and ventilation required by the applicable building code will be maintained during construction. The plan shall indicate temporary construction, including HVAC intake and/or discharge relocations, required to isolate construction equipment, materials, people, dust, fumes, odors, and noise during the construction period. Temporary construction details shall meet code-required fire ratings for separation and corridor enclosure. At a minimum, required exits, temporary stairs, ramps, fire alarm systems, fire extinguishers, illuminated exit signs, door hardware, and smooth continuous floor surfaces should be provided at all times.

(h) Fire and hazard prevention. Areas of buildings under construction that are to remain occupied shall maintain a certificate of occupancy. In addition, the following shall be strictly enforced:

(1) No smoking is allowed on public school property, including construction areas.

(2) Daily inspections shall be conducted to assure that construction materials, equipment or debris do not block fire exits or emergency egress windows.

(3) Inspection and testing of fire alarm and smoke/fire detection systems shall be conducted throughout the project.

(4) Holes in floors or walls shall be sealed with a fire-resistant material.

(5) Temporary openings shall be covered to prevent accidents as well as to stop the possible spread of spilt liquid, construction dust, fumes or fire.

(i) Noise abatement during construction. Construction operations producing noise in excess of Occupational Safety and Health Administration (OSHA) regulations relating to occupational noise exposure, 29 CFR section 1910.95 and Appendices (Code of Federal Regulations, 1998 Edition, Superintendent of Public Documents, U.S. Government Printing Office, Washington, DC 20402; 1998; available at Office of Facilities Planning, Education Building Annex, Room 1060, State Education Department, Albany, NY 12234) shall be scheduled for times when the building is not occupied or acoustical abatement measures shall be taken to maintain reasonable sound levels in occupied spaces during construction. Language requiring the stoppage of construction activities producing unreasonable noise upon the complaint of building occupants shall be included in bid specifications and contract documents.

(j) Control of dust and debris during construction. Precautions shall be taken to prevent the passage of dust and debris into occupied parts of the building. To temporarily seal

off a doorway, heavy duty plastic generally shall be used, together with duct tape and staples. Periodic inspection and repairs of the plastic and tape must be made to prevent exposure to dust or contaminants in the event the tape becomes loose, particularly in humid weather, or the plastic is cut or torn. Gypsum board rather than loose plastic must be used in exit ways or other areas that require fire rated separation. Plastic may be used only for its intended purpose as a vapor, fine dust or air infiltration barrier, and shall not be used to separate occupied spaces from construction areas.

(1) A specific stairwell and/or elevator shall be assigned for construction worker use during work hours. In general, workers may not use corridors, stairs or elevators designated for students or school staff.

(2) Any existing or created holes in floors or walls shall be sealed with a fire-rated material.

(3) Large amounts of debris must be removed by using enclosed chutes or a similar sealed system. There should be no wheelbarrows rolling through halls contaminating the occupied spaces of the building and costing the district additional operational expenses. No material shall be dropped or thrown outside the walls of the building contaminating lawns, sidewalks or parking areas. (If the amount of debris is very minimal and there is immediate access to a designated work elevator or exit, a wheelbarrow or similar system can be used only if the material is transported through hallways and elevators not used by students and school staff. Dusty material shall be covered during transit).

(4) All occupied parts of the building affected by renovation activity shall be cleaned at the close of each workday. Generally, sweeping compound shall be used where needed to remove dust. If the dust is contaminated with lead, the procedure described in subdivision (m) of this section shall be used. Workers shall remove debris from the work area of an occupied space each day. Debris shall not be left overnight in a classroom or in hallways, stairwells or surrounding grounds.

(k) Control of chemical fumes and gases during construction and maintenance projects. The bid specifications and construction contracts for each construction project shall indicate how and where welding, gasoline engine, roofing, paving, painting or other fumes will be exhausted. Care must be taken to assure fresh air intakes do not draw in such fumes.

(1) Schedules of work on construction and maintenance projects shall include time for "baking out" of volatile organic compounds introduced during construction before occupancy is allowed. Materials to watch closely include such things as glues, paint, furniture, and furnishings such as carpeting, wall coverings, and drapery.

(2) The contractor shall provide schedules of work which include a minimum of 48 hours or the manufacturer's recommended time for "baking out", whichever is greater, and exhausting of any volatile organic compounds found in the materials used during construction.

(3) Manufacturer's Material Safety Data Sheets (MSDS) shall be maintained at the site for all products used in the project. MSDS must be provided to anyone who requests them. MSDS indicate chemicals used in the product, product toxicity, typical side effects of exposure to the product and safe procedures, temperatures and times needed to cure or ventilate the product during use and before safe occupancy of a space can be assured.

(4) If a building material or furnishing will "off-

gas" noxious gases and there is no less toxic alternative, the school district or board shall determine whether the product can be aired out in a well-ventilated heated warehouse before it is brought to the project for installation. If not, the manufacturer's recommended "baking out" periods must be scheduled between installation and use of the space by students or school staff. If the work will generate toxic gases that cannot be contained in an isolated area, the work must be done when school classes and programs are not in session. The building must be properly ventilated and the material must be given proper time to cure or "off-gas" before students and/or school staff re-enter the area.

(l) Asbestos abatement protocols. Where asbestos abatement is conducted as part of a construction project, warning signs shall be posted at all approaches to the workspace and the asbestos abatement work itself shall not be conducted while classes or school programs are in session.

(1) Asbestos abatement projects shall comply with all applicable federal and State laws. The work area shall be completely sealed off from the rest of the building and all ventilation equipment must be closed and sealed. The work area shall be completely cleaned and tested before re-entry by the public.

(2) After asbestos abatement is completed, holes in walls, floors and ceilings shall be sealed tightly with fire resistant material. Such holes must be sealed for fire and smoke separation between floors, in corridor or stair enclosures and anywhere else a fire rating is required. Covering the hole with plastic or cardboard and duct tape is not adequate for public use of the space.

(m) Lead paint protocols. Boards of education and boards of cooperative educational services shall ensure that contractors working in areas painted with lead-containing paint seal work areas and contain the dust. Buildings housing elementary and pre-school children must be treated with extreme caution. Where lead paint is present (school buildings constructed prior to 1980 are at risk of having lead-containing paint):

(1) Any room in which scraping, painting or plastering is to be done must be emptied of books and papers, furniture, curtains and carpets to the greatest extent possible.

(2) Any items remaining in the room shall be wrapped or covered with two layers of 6 mil polyethylene.

(3) The bottom layer of polyethylene shall not be removed from those furnishings until the room has been cleared for re-occupancy.

(4) Generally, for window removal or jobs that disturb areas larger than two square feet, the entire floor shall be covered with two sheets of 6 mil polyethylene, taped to the floor or baseboard and taped together to prevent dust from penetrating this covering. The doorway shall be sealed with two layers of 6 mil polyethylene. To allow entry, the first layer may be taped across the top and left side and the second across the top and right side.

(5) All air vents in the work area shall be closed and covered with plastic unless they are feeding air into the room. Lights in the work area shall be covered with plastic and sealed to prevent dust from settling in them.

(6) Loose and peeling paint or plaster shall be removed wet, using water misting to reduce dust caused by the removal. Lead paint shall not be scraped or sanded when dry.

(7) A special high efficiency particulate air (HEPA) filtration vacuum, which is able to filter out fine lead dust particles, shall be used to remove lead dust.

(8) When renovation work is completed, the walls, floors, cabinets, window sills, moldings, and electrical and plumbing fixtures shall be washed with detergent.

(n) Post construction inspection. The school district or board shall provide the opportunity for a walk-through inspection by the health and safety committee members and/or other parent and teacher representatives, to confirm that the area is ready to be reopened for use.

155.6. School facility report cards. Commencing January 1, 2000 and each year thereafter, every school district and board of cooperative educational services shall prepare a school facility report card for each school building in accordance with the provisions of this section. In the case of the New York City School District, the Chancellor of the City School District shall prepare school facility report cards for facilities of community school districts and of the central board. The school facility report card for each building shall be reviewed annually by the board of education or board of cooperative educational services. The board of education or board of cooperative educational services shall report in a public meeting or, in the case of the New York City School District, in public meetings held in each community school district on the status of the following for each facility located in the district in which the public meeting is held:

(a) Building age;
(b) Building size;
(c) Enrollment by building;
(d) Rated capacity of the building;
(e) List of program spaces;
(f) Probable useful life of the building;
(g) Five year building condition survey results;
(h) Annual building inspection results;
(i) School building safety rating;
(j) Certificate of Occupancy status and expiration date;
(k) Non-conformances identified during annual building inspections and the date of correction;
(l) Five-year capital facilities plan status and summary;
(m) Estimated costs to restore the school buildings to a state of good repair;
(n) Estimated costs to keep the building in a state of good repair;
(o) Projected operations and maintenance spending for the current school year;
(p) Preventive maintenance activities;
(q) Need for routine maintenance, repairs, rehabilitation, reconstruction, construction and other improvements;
(r) Estimated energy costs for the current school year;
(s) A description of Health and Safety Committee activities; and
(t) The following environmental information:

(1) federal Asbestos Hazard Emergency Response Act (AHERA) plan, 40 CFR Part 763 (Code of Federal Regulations, 1998 Edition, Superintendent of Public Documents, U.S. Government Printing Office, Washington, DC 20402; 1998;

available at Office of Facilities Planning, Education Building Annex, Room 1060, State Education Department, Albany, NY 12234);

(2) lead testing;

(3) radon testing;

(4) integrated pest management;

(5) name of the Right-to-Know designee for the building.

When construction costs are $10,000 or more, building construction aid, pursuant to Education Law, section 3602, is available for eligible capital outlays.

1

# New Building-Addition-Reconstruction

## New York State Education Department

### Office of Facilities Planning
### Room 1060 Education Building Annex

## LETTER OF INTENT FORM

| School District/BOCES: | |
|---|---|
| BEDS Code: ☐☐-☐☐-☐☐-☐☐ | Date: |
| Contact Person: | Title of Contact Person: |
| Address: | Telephone Number: |

| Project#1 | Individual Project Information |
|---|---|

Name of Building: _____

Building Code: ☐-☐☐☐ (existing buildings only)

Type of Project (check one): ☐ New Building ☐ Addition and Alterations ☐ Reconstruction only (no new space being created)

Nature of Work (check all that apply):

☐ Site Development (02) ☐ Asbestos (02) ☐ Masonry (04) ☐ Roofing (07)

☐ Doors and/or Windows (08) ☐ Finishes (floors, walls) (09)

☐ Specialties (10)—specify: _____

☐ Special Construction (13)—specify: _____

☐ Conveying System (14) ☐ Heating/Ventilating/Air Conditioning (155)

☐ Plumbing (15) ☐ Electrical (16)

**NOTE:** If you need more than one project established, please use the Individual Project Information Form and attach as many copies as necessary to this initial L.O.I. form. There is also an L.O.I. form available for Leased Space or Discovered Buildings, as well as an L.O.I. form available for District-Wide Projects (i.e., several buildings in the same district having the same type of work done, such as a telephone system), and an L.O.I. form for Manufactured Buildings (otherwise known as relocatables or portables).

**For SED Use Only:** Project Manager: _____ Date: _____ Processed by: _____

Project # 1 Control Number: ☐☐-☐☐-☐☐-☐☐-☐-☐☐☐-☐☐☐

U.S. Department of Education
Office of Educational Research and Improvement (OERI)
National Library of Education (NLE)
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