# Chicago Public Schools Policy Manual

**Title:** **CHARTER SCHOOL CAPITAL AND FACILITY BUDGET POLICY**
**Section:** **410.9**
**Board Report:** 11-0427-PO1 **Date Adopted:** April 27, 2011

**Policy:**

**THE CHIEF EXECUTIVE OFFICER RECOMMENDS:**

That the Board amend the Charter School Capital and Facility Budget Policy, 08-0326-PO1.

**POLICY TEXT:**

## I. Purpose and Goals

The Chicago Board of Education currently has granted or approved charters to forty-one Charter Schools. Thirteen Charter Schools have the legal capacity to operate on multiple campuses. As of the date of this amended policy, ten Charter Schools have opened more than one campus. Charter Schools opened after April 16, 2003 are authorized to operate only on one campus.

Pursuant to 105 ILCS 5/27A-5, Charter Schools may negotiate or contract with a school district for: "(i) the use of a school building and grounds or any other real property or facilities that the charter school desires to use or convert for use as a charter school site; and (ii) the operation and maintenance thereof". Under this statute "a school district may charge a charter school reasonable rent for the use of the district's buildings, grounds and facilities."

This policy is guided by two essential goals for providing schools support:

(1) An interest in providing capital and other financial assistance to Charter Schools; and

(2) Strategic planning for the allocation of Board physical and budgetary resources.

## II. Definitions

**Board Property:** Any building or other real property owned or leased by the Board, including any real property held by the City of Chicago in trust for the Board or held by the Public Building Commission.

**Capital Assistance:** Funds provided by the Board or third parties to upgrade Board Property that is or will be leased to Charter Schools. Capital Assistance may include allocations from the Board's capital or non-capital budgets. Allocations of capital funds shall be limited to improvements of, or repairs to Board Property.

**Other Financial Assistance**: Allocations of non-capital funds also may be available to Charter Schools which operate in Board facilities or in private, non-Board facilities, subject to the limitations in this policy and the Charter Schools Act.

**Charter Schools:** Charter Schools are independently-operated public schools, approved and certified under the Illinois Charter Schools Law, 105 ILCS 5/27A. Charter School teachers and staff are employees of the nonprofit organization that governs the Charter School or an education management organization hired by the nonprofit organization.

## III. Application of Policy

The requirements of this policy apply to all Charter School~~s~~ requests to use or improve Board Property, all Charter School requests to receive capital or other financial assistance from the Board, and all Charter School requests for Board support of a Charter School's application for third party capital or financial assistance.

## IV. Board Capital and Financial Assistance

In preparing the annual fiscal year budget, the Chief Financial Officer (CFO) shall determine whether and how much of the Board's capital funds should be expended to improve and repair Board Property that is or will be leased to Charter Schools. The CFO and the Chief Executive Officer (CEO) shall make recommendations to the Board regarding said capital support. As part of the annual budget process, any capital funds allocated to improve Board Property that is or will be leased to a Charter School shall be approved by the Board prior to any expenditures.

Any Charter School that applies for a grant of capital funds to improve any property that is not owned by the Board must include in the proposal a method for conveyance of title to the property to the Board. All other financial assistance to Charter Schools shall be provided for in the agreement between the Charter School and the Board, as approved by the Illinois State Board of Education or in a grant agreement approved by the Board.

All applications for capital or other financial assistance to improve facilities must be reviewed to ensure the Board's compliance with the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act, other applicable laws related to access for persons with disabilities, and related Board policies. Also such applications shall be reviewed for compliance with federal and state laws governing the use of tax-exempt bond proceeds, and taxable bond proceeds when applicable.

The CEO or his designees are directed to conduct a review of the terms of all existing Charter School agreements and leases with Charter Schools. If those agreements and leases are inconsistent with this policy, the CEO or his designees are directed to reconcile those agreements and leases with this policy at the earliest opportunity but no later than prior to the Board's consideration of any contract or lease amendments or renewals.

## V. Non-Board Capital and Financial Assistance

Any request for Board support of a Charter School application for third party capital or financial assistance must be made in writing and submitted to the Chief of the Office of New Schools (ONS) and the CFO.

If a Charter School is applying to third parties for capital or financial assistance for the purpose of funding improvements to Board property leased to the Charter School (the "Transaction") and requests a longer lease term to support this application, the Board may authorize a lease term of not more than seven (7) years in duration. Any such request for a longer lease term must, at a minimum, satisfy the following: (1) the lease shall not be pledged as security to the Transaction; (2) no party other than the Charter School shall have the right to possession of the leased facility; (3) no party shall have the right to foreclose on the lease of Board property; (4) the Charter School shall complete the evaluation process established by the CFO and ONS for extended lease term requests and received a satisfactory rating; (5) the Charter School shall not be in default under any agreement with the Board, including but not limited to an existing charter agreement or charter lease; and (6) the Charter School shall pay the Board's attorney fees and expenses associated with the Transaction.

Any Charter School request for Board support of an application for third party capital or financial assistance, including requests for a longer lease term, is subject to Board approval, in its sole discretion.

## VI. Identification of Potential Charter Schools Facility Opportunities

Periodically, the CEO or his designee will perform an assessment of certain Board Property potentially available for lease to a Charter School. The results of these assessments will be reported to the Board in a timely manner.

## VII. Notice

The CEO shall provide not less than sixty days notice of his intent to request approval from the Board to improve and/or lease Board Property to a Charter School. The notice shall be presented in the form of a memorandum to the Secretary of the Board describing 1) the Board Property proposed to be leased and/or improved, and 2) the anticipated repairs.

## VIII. Lease Agreement

Prior to occupancy of Board Property, a Charter School shall execute a lease agreement in a form approved by the Chief Operating Officer (COO) and the General Counsel. All charter school lease agreements shall be approved by the Board prior to execution. This provision of this policy is a direct limitation on the authority granted to the COO in Board Rule 2-27(d)(2). All such Charter School leases shall not be for a period more than five (5) years and shall not provide the lessee with any rights to renew except when otherwise authorized by the Board in accordance with Section V herein. Further, all such Charter School leases shall comply with any applicable federal or state laws regarding tax-exempt financing and taxable financing.

Any lease agreement entered into pursuant to this policy shall provide that in the event of termination of the Charter School's charter agreement: (1) the charter lease shall terminate; and (2) all capital improvements permitted, made and/or funded pursuant to this policy shall remain on the Board's Property and shall become property of the Board, at no additional cost to the Board.

## IX. Guidelines

The COO is directed to establish guidelines and procedures for evaluating requests for the use of Board Property and for establishing standards for capital improvements to Board Property that are being occupied by a Charter School.

**Amends/Rescinds:** Amends 08-0326-PO1
**Cross References:**
**Legal References:** Illinois Charter Schools Law, Illinois School Code, 105 ILCS 5/27A.