

**124E.13 FACILITIES.**

Subdivision 1. **Leased space.** A charter school may lease space from an independent or special school board, other public organization, private, nonprofit nonsectarian organization, private property owner, or a sectarian organization if the leased space is constructed as a school facility. The department must review and approve or disapprove leases in a timely manner for purposes of determining eligibility for lease aid under section 124E.22.

Subd. 2. **Related party lease costs.** (a) A charter school is prohibited from entering a lease of real property with a related party unless the lessor is a nonprofit corporation under chapter 317A or a cooperative under chapter 308A, and the lease cost is reasonable under section 124E.22, paragraph (a), clause (1).

(b) A lease of real property to be used for a charter school, not excluded in paragraph (a), must contain the following statement: "This lease is subject to Minnesota Statutes, section 124E.13, subdivision 2."

(c) If a charter school enters into as lessee a lease with a related party and the charter school subsequently closes, the commissioner has the right to recover from the lessor any lease payments in excess of those that are reasonable under section 124E.22, paragraph (a), clause (1).

Subd. 3. **Affiliated nonprofit building corporation.** (a) A charter school may organize an affiliated nonprofit building corporation (1) to purchase, expand, or renovate an existing facility to serve as a school or (2) to construct a new school facility if the charter school:

- (i) has been in operation for at least six consecutive years;
- (ii) as of June 30 has a net positive unreserved general fund balance in the preceding three fiscal years;
- (iii) has long-range strategic and financial plans that include enrollment projections for at least five years;
- (iv) completes a feasibility study of facility options that outlines the benefits and costs of the options; and
- (v) has a plan for purchase, renovation, or new construction which describes project parameters and budget.

(b) An affiliated nonprofit building corporation under this subdivision must:

- (1) be incorporated under section 317A;
- (2) comply with applicable Internal Revenue Service regulations, including regulations for "supporting organizations" as defined by the Internal Revenue Service;
- (3) post on the school Web site the name, mailing address, bylaws, minutes of board meetings, and the names of the current board of directors of the affiliated nonprofit building corporation;
- (4) submit to the commissioner a copy of its annual audit by December 31 of each year; and
- (5) comply with government data practices law under chapter 13.

(c) An affiliated nonprofit building corporation must not serve as the leasing agent for property or facilities it does not own. A charter school that leases a facility from an affiliated nonprofit building corporation that does not own the leased facility is ineligible to receive charter school lease aid. The state is immune from liability resulting from a contract between a charter school and an affiliated nonprofit building corporation.

(d) Once an affiliated nonprofit building corporation is incorporated under this subdivision, the authorizer of the school must oversee the efforts of the school's board of directors to ensure the affiliated nonprofit building corporation complies with all legal requirements governing the affiliated nonprofit building corporation. A school's board of directors that fails to ensure the affiliated nonprofit building corporation's compliance violates its responsibilities and an authorizer must factor the failure into the authorizer's evaluation of the school.

Subd. 4. **Positive review and comment.** A charter school or its affiliated nonprofit building corporation must receive a positive review and comment from the commissioner before initiating any purchase agreement or construction contract that requires an expenditure in excess of the threshold specified in section 123B.71, subdivision 8, for school districts that do not have a capital loan outstanding. A purchase agreement or construction contract finalized before a positive review and comment is null and void.

**History:** 1991 c 265 art 9 s 3; 1993 c 224 art 9 s 10; 1994 c 647 art 9 s 2; 1Sp1995 c 3 art 9 s 2; art 16 s 13; 1998 c 397 art 2 s 164; 1Sp2001 c 6 art 2 s 25; 2003 c 130 s 12; 1Sp2003 c 9 art 12 s 11; 2007 c 146 art 2 s 24; 2009 c 96 art 2 s 41; 1Sp2011 c 11 art 2 s 29; 2012 c 239 art 2 s 14; 2013 c 116 art 4 s 1; 2014 c 272 art 3 s 40,41; 1Sp2015 c 3 art 4 s 10