



## Minnesota State Colleges and Universities System Procedures Chapter 6 – Facilities Management

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### Procedures 6.7.3 Use of Non-College and University Facilities (College or University as Lessee/Tenant).

**Part 1. Purpose.** This procedure guides Colleges and Universities use and leasing of land and buildings not owned by the State of Minnesota under the jurisdiction of Minnesota State Colleges and Universities (“MnSCU”), consistent with state law, Board policy, procedures and the strategic mission of the system. A link to the “Checklist to Procedure 6.7.3 for Leasing and Using Off Campus Facilities” is provided at the end of this procedure.

#### Part 2. Definitions.

**College or University.** A member institution of Minnesota State Colleges and Universities, a public higher education system.

**Director of Real Estate Services.** The primary contact within the Office of the Chancellor for all Facilities Agreements.

**Facility or Facilities.** Land, building or other improvements on property neither owned nor under the jurisdictional control of Minnesota State Colleges and Universities that is the subject of a Facilities Agreement.

**Facilities Agreement.** An agreement that governs the terms of use and occupancy of non-Board owned land or improvements for the benefit of a College, University or the Office of the Chancellor.

**Lease.** An agreement where a College or University User shall have the right to exclusive use and possession of space in a Facility (including land) not owned by Minnesota State Colleges and Universities for a defined term in exchange for the payment of rent or other consideration.

**Leased Premises.** The extent of the Facilities possessed and controlled by the Lessee under the terms of a Lease, and may include any parking for the exclusive use of the Lessee’s staff, students, clients, guests and invitees.

**Leasehold Improvements.** Improvements made to the Leased Premises prior to Lessee’s occupancy and necessary for the Lessee to use the Facilities as described in a Facilities Agreement. Leasehold Improvements permanently attach to the Facility and remain with the Facility at the end of the lease term.

**Lessor or Landlord.** The legal entity or individual unrelated to MnSCU that leases land, building or other real property interest to a College, University or the Office of the Chancellor.

**Lessee or Tenant.** The State of Minnesota by and through the Board of Trustees of Minnesota State Colleges and Universities, on behalf of [college or university and campus].

**Minnesota State Colleges and Universities.** The state colleges and universities governed by the Board of Trustees, and is the legal entity established and authorized to enter into Facilities Agreements as Lessee or Tenant. The short form reference shall be “MnSCU”.

**Office of the Chancellor.** The Chancellor or the appropriately delegated staff members within the office, who have authority to negotiate, sign, and/or approve Facilities Agreements.

**Use.** The occupation, possession or utilization of land, building space or a building to accommodate a College or University-sponsored program or event that is not otherwise accomplished on a Minnesota State Colleges and Universities campus.

**User. Use Agreement.** A contract where a College or University has the right to use or possess space for a fee, but does not enjoy the rights and privileges associated with a lease. A use agreement is more transient, and is usually terminable at will.

**Vice Chancellor – Chief Financial Officer.** The Vice-Chancellor – Chief Financial Officer of the Minnesota State Colleges and Universities system, unless otherwise noted, who has authority to sign and approve all Facilities Agreements on behalf of the system.

**Part 3. Applicability.** This procedure applies when a College, University or the Office of the Chancellor seeks to use Facilities off-campus or Facilities otherwise owned by a private or public third-party, including other government entities. A written and fully-signed Facilities Agreement is required prior to occupancy by a College or University for Facilities not owned by Minnesota State Colleges and Universities.

**Part 4. Authority.** Pursuant to Minnesota law, the Board of Trustees of Minnesota State Colleges and Universities may use or lease Facilities owned and controlled by others, consistent with Board policies, procedures and applicable state law.

**Subpart A. Policy.** Board Policy 6.7, Real Estate Transactions, requires the Office of the Chancellor to approve all real estate transactions, which includes use of Facilities by the Office of the Chancellor, Colleges, and Universities, subject to the limitations identified herein.

**Subpart B. Delegated authority for College and University presidents; Director of Real Estate Services.** College and University presidents and the Director of Real Estate Services may enter into Facilities Agreements off campus that are valued at \$100,000 or less and for five (5) years or less in length (including all renewal options), using MnSCU standard forms. See Procedure 1A.2.2 Delegation of Authority, Part 1. The College or University shall maintain copies of all Facilities Agreements. Agreements expected to last one year or longer shall be provided to the Office of the Chancellor after execution. Facilities Agreements lasting less than one year may be provided at the discretion of a College or University or upon request from the Office of the Chancellor.

**Subpart C. Legal Entity.** The College, University or Office of the Chancellor as Lessee/Tenant shall be identified in all Facilities Agreement as the “State of Minnesota, by and through the Board of Trustees of Minnesota State Colleges and Universities, on behalf of [the College or University and campus or Office of the Chancellor].”

**Part 5. Leasing thresholds and approval requirements.** Board Policy 5.14, Procurement and Contracts, provide that contracts, including real property leases, shall not exceed five years, including renewals, unless otherwise provided for by law or approved by the chancellor or the chancellor’s designee. Board of Trustees approval is required for Facilities Agreements that exceed \$2,000,000

total (including all options to renew). Vice Chancellor – Chief Financial Officer approval is required for all Facilities Agreements with terms that: a) exceed five (5) years or b) the total value exceeds \$100,000. Colleges, Universities and the Office of the Chancellor may lease land or premises for up to ten (10) years. (see Minn. Stat. §16B.24, Subd. 6)..

**Part 6. Establishing Facilities Off-Campus.** Before entering into any arrangements to use off-campus Facilities, the College or University shall consult their facilities, financial and academic master plans and the Office of the Chancellor - Director of Real Estate Services. Using off-campus Facilities shall be consistent with campus master facilities plans. At a minimum, a College or University should consider the following before leasing off-campus Facilities:

- Resources available to reconfigure space on campus;
- Non-instructional or non-academic needs;
- “Temporary” vs. “Long-term” need
- Whether contiguous campus space is required;
- Whether campus support facilities or access to campus operations is required

**Subpart A. Academic Programs.** A College or University seeking to add an academic program in an off-campus location shall follow the process established by the Office of the Chancellor Academic Affairs and Student Affairs, consistent with System Procedure 3.36.1 and ASA-2008-13 – Institutional Intent to Add an Off-Campus Location. All academic programs using space off-campus require a Facilities Agreement.

**Subpart B. Other Programs or Administrative Space.** A College or University shall notify the Office of the Chancellor before negotiating a Facilities Agreement off-campus, whenever the Facilities Agreement is expected to exceed the thresholds identified above.

**Subpart C. Campus Request to Office of the Chancellor.** When threshold amounts are reached, the campus shall make a request to the Office of the Chancellor to lease off-campus Facilities. The request shall include:

1. Space Type (office, warehouse, lab, storage, etc.)
2. Funding (source and type)
3. Description of the Property to be leased, including property address,
4. Gross, usable and rentable square footage,
5. Lessor/Owner name and address,
6. Term (start and end date) with any options to renew
7. Rent, including all estimated operating expenses (if not a gross lease)
8. Explanation of the need for such space, rent rate, including operating costs, lessee improvements or any additional costs associated with the lease.
9. Use of the Facility
10. Parking requirements.
11. Telecommunication requirements.
12. Number of Staff at location.
13. Estimate of moving costs.

**Subpart D. Facilities Agreement Templates and Copies.** The Office of the Chancellor shall maintain Facilities Agreement templates approved by the Office of General Counsel and/or

Attorney General's Office for College and University use. Copies of all fully executed Facilities Agreements lasting one (1) year or longer shall be provided to the Office of the Chancellor - Real Estate Services. Copies of Facilities Agreements lasting less than one (1) year shall be provided upon request.

**Subpart E. Reporting Obligation.** Colleges and Universities shall have an annual obligation to report all Facilities Agreements to the Office of the Chancellor currently in effect as of June 30.

**Part 7. Leasehold Improvements.** The Owner shall be responsible for completing any leasehold improvements to the Facility. The Lease may be structured to amortize the leasehold improvement costs during the term of the Lease. Major capital maintenance and repairs of the Facility (i.e. roof, building structure, HVAC) shall remain a building owner's responsibility in any Facilities Agreement.

**Part 8. Other Governmental or Public Property.** Colleges and Universities often use property owned and controlled by another state agency or another governmental entity, such as a city, county, school district or the University of Minnesota. MnSCU shall enter into a Facilities Agreement with these governmental or public entities. Please consult with the Office of the Chancellor before proceeding with using space in a governmental or public property.

**Part 9. Termination Language.** All Facilities Agreements shall be subject to cancellation upon thirty (30) days written notice by the Board for any reason except the lease of other non-state-owned land or premises for the same use.

**Part 10. Contact.** The primary contact person for this procedure and Facilities Agreements is the Director of Real Estate Services in the Office of the Chancellor.

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