



MEMORANDUM

To: District Superintendents
From: SC Department of Education
Subject: Ongoing Updates to OSF Processes & Procedures (DRAFT)
Date: September 7, 2023

The SC Department of Education is actively implementing updates to processes and procedures in the Office of School Facilities. This document represents a working draft. In the pursuit of continuous quality improvement, Superintendent Weaver welcomes feedback or questions regarding this memo to be sent to her via Formstack at

http://scde.formstack.com/forms/office_of_school_facilities_policies_and_procedures

I. OSF to Review All Plans in 90 to 110 Days

Preliminary Round (Optional)

Schematic Design (SD) is an optional, preliminary round used by some districts to determine project feasibility before incurring the cost of developing full Design Documents (DDs). OSF will review, note required revisions, and return SDs to design professionals within 20 calendar days. Since SDs are not always used, this Preliminary Round is not included in the 90-day timeline set forth below. However, when SDs are used, this Preliminary Round will add 20 days to the 90-day timeline.

Round One (Day 1– Day 30):

Design Professionals must ensure that DDs are complete pursuant to the guidelines set forth in the SDE's Construction Planning Guide. Submission of incomplete DDs will protract the timeline outlined in this document.

The day complete DDs are submitted to OSF is Day 1 of the timeline. By Day 5, OSF will verify that DDs are complete, and will return incomplete DDs to design professionals. OSF will then perform its review of DDs, noting all required revisions—including those needed for code compliance. By the close of Day 30, OSF will return marked-up DDs to Design Professionals to request revisions. OSF may not add additional revisions after Round One unless explicit code violations are discovered later in the process.

Round Two (Days 31-60):

To maintain the 90-day timeline, districts are encouraged to ensure that their Design Professionals incorporate all revisions requested by OSF and submit Construction Documents (CDs) to OSF no later than day 60.

Round Three (Days 61-90): OSF will verify that all its requested revisions of the were incorporated, and that all outside permits (e.g., SCDOT and SCDHEC) are in place. Upon completion of this process, will issue the district a *School Building Permit* by Day 90.

Timeline Summary

To recap, this timeline reflects 30 days for OSF to conduct its original review of Design Documents, 30 days for district to incorporate OSF's revisions, and 30 days for OSF to affirm those revisions in the Construction Documents and issue a School Building Permit. When preliminary Schematic Designs are sent to OSF, 20 days is added to the timeline and OSF will issue a School Building Permit within 110 days.

NOTE: *This proposed timeline relies on timely submission of complete preliminary plans and subsequent revisions by districts.*

II. Implement New Plan Review Process for Routine Maintenance

In general terms, renovations to school buildings must be approved by OSF and routine maintenance does not require OSF approval. In practice, these terms are often confused, so OSF will issue clear guidance on what constitutes renovations versus what constitutes maintenance.

The building code says renovations include things like structural changes, HVA/C, roofing, electrical panels, and any fire equipment (alarms, sprinklers, panels, etc.) while maintenance includes things like paint, curtains, and carpet.

Further clarifying this distinction, the building code sets forth three levels of what it calls "alterations":

- Level 1 Alterations = routine maintenance.
- Level 2 Alterations – renovations and additions that comprise less than 50% of the building area.
- Level 3 Alterations – renovation / additions that comprise more than 50% of the building area.

New Plan Review Process:

- OSF will no longer require plan review for Level 1 Alterations, unless those alterations relate to "fire and life safety standards or specifications," including but not limited to door locks that prevent evacuation. Moreover, districts must ensure adherence to all accessibility provisions in Level 1 alterations.
- OSF will only require plan review for Level 2 Alterations (as defined by the applicable building code) that involve structural members, fire and life safety, accessibility, HVA/C, roofing, electrical panels, and any fire equipment (alarms, sprinklers, panels, etc.)
- OSF must require plan review for all Level 3 Alterations, as required by code.

- For alterations that do not require OSF involvement, districts must complete a form (to be created by SDE legal division) on the OSF portal certifying compliance with all health, safety, fire, and laws and the SC Building Code.

No later than October 30, 2023, OSF will publish a definitive code-supported list of maintenance items that are exempt from OSF approval and clarify all items that must be approved by OSF.

III. Delegate Plan Review and Inspections to Local Building Code Officials for Buildings Not Primarily Occupied for Use by Students

OSF will no longer review plans or conduct inspections for structures that are not primarily occupied by students. This includes storage buildings and sheds, district office buildings, and the like. No later than October 30, 2023, OSF will develop a working list of structures that qualify for this exemption.

To implement this process improvement, districts must notify OSF in writing of their intention to pursue such a project. If OSF determines the project qualifies for this exemption, the Office of the General Counsel will notify the district in writing that they are authorized, per SC Code Ann. § 6-9-110 (a) (2)ⁱ, to proceed to work with local building code officials to conduct reviews and inspections and issue permits for these non-student structures.

To that end, OSF will notify building code officials statewide, including the [Building Officials Association of SC](#), of this process change.

IV. Streamline Number of OSF-led Inspections to Eliminate Duplication

SC law says the Superintendent or the Superintendent's designee must conduct building inspections for schools (SC Code Ann. § 59-23-220). The Superintendent's goal is to designate most, if not all, building inspections so that OSF can focus primarily on plan review. Doing so will solve OSF's current capacity issue and provide districts with more flexibility and ownership of the process.

As noted above, OSF does not currently conduct routine inspections on things like footings, framing, etc. These routine inspections are already conducted by third-party LLR-licensed officials that are hired by the districts.

Currently, OSF only conducts inspections for fire systems, above ceiling inspections, and final inspections. OSF conducts these three categories of inspections because it cites an approximate 30% error/failure rate by the third-party inspectors. Therefore, OSF conducts their own inspection to assure compliance. These duplicate inspections tax OSF beyond manpower capacity.

As interim steps to designating most if not all inspections outside of OSF, the following process improvements will be implemented in the 2023-2024 school year.

- Delegate all fire inspections to the SC State Fire Marshalls to conduct these inspections. The Fire Marshall's office is willing and eager to conduct these inspections, and they are in the process of sending OSF an MOU with associated costs.
- OSF will create a list of preferred third-party, licensed inspectors no later than October 30, 2023. The preferred inspectors on this list will be authorized to conduct all inspections—including the above ceiling and final inspections—without further OSF oversight. Upon final inspection approval from these third-party inspectors, OSF will issue a "Certificate of Approval."
- In lieu of inspecting entire school buildings, OSF will restrict any Above Ceiling inspections to the following mock-up areas: a typical classroom, one section of a corridor, the kitchen, and firewalls/rated partition with opening protectives (fire / smoke or combination dampers). Deficiencies identified in these mock-up areas are assumed to exist throughout the entire building and must therefore be verified / corrected throughout the entire building by the district's contractor and the district's Inspector before approval is granted to close off the ceiling. The mock-up areas will also serve as an example for all trades to follow for the entire construction project. OSF can then re-inspect those areas during OSF's Final Inspection to ensure compliance throughout.
- OSF will contact [Building Officials Association of SC](#) to explore the opportunity for local Authority-Having Jurisdictions (AHJs) to serve as the Superintendent's designee for Above Ceiling and Final inspections, in any school building—not only the non-student occupied buildings. This may involve surveying local officials, speaking to a sample group of AHJs, or speaking at their upcoming conference.
- Offer all charter schools who are utilizing preexisting commercial spaces for school buildings to use local building departments/AHJs. The reason for this change is that local inspectors already know the history of these buildings and are more qualified to judge the quality of improvements by charter schools. These existing commercial buildings represent 75% of the 40 current charter school projects, freeing OSF resources. The only issue to convey to charter schools is that the local building inspector will charge for the building permit, so charter schools will incur this cost. Upon the conclusion of the AHJ approving all plans and inspections, OSF will issue a Certificate of Approval.
- If a capacity problem continues to exist, the Superintendent will consider designating all charter school projects to local building officials or trusted third party inspectors—including all new school buildings.

V. Bring SC School Facilities Construction Guide into Compliance with State Statutes

Update Guide in 2024: The School Facilities Construction Guide was last reviewed in January 2023 (updates published and effective as of September 1, 2023). Title 59 calls for annual updates so the review committee will convene in January 2024 to provide 2024 updates.ⁱⁱ The law prescribes that various professions must be represented on this committee, so the Superintendent will ensure these professions are fairly represented by respective industry leaders.

To aid in the 2024 review process, SDE will engage a construction law firm no later than October 1, 2023, to identify any aspect of the Guide that differs from otherwise applicable state building codes. This law firm's recommendations will be presented to the review committee to be incorporated into the 2024 Guide.

As part of the Construction Guide update process, the following issues should also be presented for the committee's consideration or possibly included in the law firm's recommendations.

- **Replace “regulation” language.** The term “regulation” is erroneously used throughout the Guide. Title 59 says the guide must contain “the latest applicable standards and specifications.” It does not say regulations, which implies greater authority. Moreover, the Guide does not go through the state regulatory process (public comment, etc.) so the word “regulation” must be stricken in all instances.
- **Revise inspection guidance.** In the Guide, Section 107.1 says inspections must be performed by OSF. Title 59 says that inspections must be performed by the Superintendent, or her designee. Title 6 does say inspections must be performed by the Office of Facilities Management at the SDE, which does not exist.
- **Assess Sections 108.41 and 108.42 for compliance.** These sections seem to indicate that the Guide may supersede state law if the Guide is more stringent. This seems to provide undue powers to OSF and should be assessed by the law firm, and explicitly state where there are variances with or waivers of the SC Building Code.
- **Refine use of the word “authority.”** All through the Guide, the phrase “*OSF has the authority*” appears, where statutes do not clearly indicate such authority. These references need to be updated to be consistent with the law, as the Superintendent has the authority, and OSF only has the authority in so far as it is delegated by the State Superintendent.
- **Focus on substance over process.** The Guide should be shortened and refocused on the substance of “the latest applicable standards and specifications” rather than exhaustively outlining Department implementation timelines, process, and procedures (most content from Section 109 and following seem to be more process than substance). Consideration should be given to deleting process except when essential for clarity to allow for more ongoing and timely process improvement.

- **Avoid over-restriction.** The committee, while keeping student safety front and center, should actively examine the practical functionality of the Guide and how it affects school construction, restricting it to ensuring best practices for school construction, i.e., “the latest applicable standards and specifications” as provided for in Title 59.
- **Clarify use of terms *Building Permit* and *Certificate of Occupancy*.** SC Code 59-23-220 says the Superintendent or designee must issue a “certificate of approval” before a school building is occupied. The law seems to indicate that this “Certificate of Approval” is rough equivalent of a Certificate of Occupancy issued by a county or municipality. However, the distinction is more than semantical, as the two certificates derive from different statutes that have different criteria for their issuance. Nevertheless, issuing this Certificate of Approval does grant schools the ability to occupy the facility. Also, instead of using the term Building Permit, change the nomenclature to School Building Permit to create a clear distinction between a school and non-school building.

Implementation

1. OSF staff will begin implementation now with all changes fully implemented by OSF no later than October 30, 2023.
2. The Construction Planning Guide will be updated in January 2024 to reflect these changes.
3. OSF will explore Fixed Price Contracts with additional plan review professionals.

ⁱ SC Code Ann. § 6-9-110 (a)(2) reads: *Ordinances or regulations requiring purchase or acquisition of permit or license; inapplicability to certain state and school district projects; jurisdiction of deputy state fire marshals and certified State Engineer's Office personnel: school district facility, permanent improvement project, construction project, renovation project, or property which is reviewed and approved by the State Department of Education; except that the State Department of Education or a local school district may direct that the local ordinance or regulation apply to a particular facility, project, or property.*

ⁱⁱ SC Code Ann. § 59-23-210 (A), reads: *All construction, improvement, and renovation of public school buildings and property on or after the effective date of this section shall comply with the latest applicable standards and specifications set forth in the South Carolina School Facilities Planning and Construction Guide as published by the South Carolina Department of Education.*

This guide must be reviewed and updated on an annual basis by a committee appointed by the South Carolina Department of Education. The committee shall consist of a minimum of two architects and one engineer who are all registered in South Carolina and experienced in K-12 design, one K-12 school administrator, one representative of the K-12 construction industry, the State Fire Marshal or his designee, a representative of the Traffic Engineering Division of the South Carolina Department of Transportation, and two representatives of the South Carolina Department of Education. In addition, the Chairman of the House of Representatives Education and Public Works Committee or his designee and the Chairman of the Senate Education Committee or his designee shall also serve as members of the committee, ex officio.