

Utah Code § 53A-1a-507(9)	ALL SCHOOLS must "submit any lease, lease-purchase agreement or other contract or agreement relating to the charter school's facilities or financing the charter school facilities to its chartering entity for review and advice prior to the charter school entering into the lease, agreement, or contract."	
ISSUE	SUGGESTED LANGUAGE	Rationale
Rent	Lease should provide for a n automatic reduction in rent if actual enrollment numbers dip below a certain amount: "Annual rent and monthly payments shall be reduced by ____ (\$ amount per student or percentage) for actual enrollment of less than ____ students.	Schools should avoid having to renegotiation a lease when enrollments are not as high as expected. If an automatic reduction is not possible, the Lease should provide for renegotiation of rent based on actual student enrollment.
Rent	Avoid rental agreements that automatically increase by a large percentage each year.	The market for school buildings is limited, so the actual value of a school building is typically less than other commercial properties. Thus, at a rental increase of 10%/year, rent payments may quickly exceed the actual market value of the property.
Rent	Avoid rental agreements that automatically increase by a defined percentage of the previous year.	This causes a compound increase that is larger than an increase defined by reference to your base (beginning) rent. Also recognize that your funding may not rise at the same rate as inflation, which is what most percentage increases mimic.
Landlord	The Landlord should guarantee that the building is fit for its intended purpose, including a maximum occupancy rate: "Premises is suitable for occupancy for the intended purpose of operating a charter school with at least a minimum occupancy rate of ____ and a maximum of ____."	The building should be of a size suitable for the schools' use for many years to come, including any reasonably foreseeable expansion in the student population. Unexpected reductions can be dealt with through the rental amount provisions above, but the building should also not be so oversized that utility payments will exceed what the school can pay based on projected and foreseeable enrollments.
Occupancy Date and Inspection	"The Premises shall be ready for occupancy when (i) the improvements are complete subject (ii) the Premises is suitable for occupancy for the intended purpose of operating a charter school with at least a minimum occupancy rate of --- as evidenced by the issuance of the certificate of occupancy, temporary or otherwise, from the applicable governmental authority for the Premises, and (iii) the Tenant has inspected the premises and accepted the premises as satisfactory for occupancy and operation as a charter school.	"Delivery" of a building suitable for use and occupancy should be guaranteed by the Landlord on a date that allows the school time to move in and prepare for classes. If the building is not ready, the school should have the option of terminating the contract or at least not paying any rent until the premises are actually usable for school purposes. The charter school should have an inspection right before it accepts the property as ready for occupancy.
Changes to the Contract	Check all Lease provisions for the words "written notice" of any changes in terms.	Any changes to the Contract, from a formal amendment to a change in the address for notices to be sent, should be in writing.
ADA and Other Statutory Compliance Requirements	"Landlord understands and acknowledges that occupancy by Tenant is dependent on the Premises satisfying all state and local provisions identified in the Utah Charter Schools Act."	The Landlord must provide assurances that the building satisfies all of the legal requirements imposed on public schools. This language avoids a laundry list of statutes, while putting the landlord on notice of the requirements.
Attorneys' Fees	Avoid provisions that require the school to pay for attorney's or other fees associated with a landlord's decision to challenge property taxes or in the event of a Lease dispute between the school and the landlord.	Having the school pay for the attorneys' fees when the landlord challenges the taxes provides an incentive for the landlord to challenge tax assessments regardless of the merits of the challenge and could result in significant costs to the school.
Termination	"At any time during the term of this Lease, Tenant may terminate the Lease by providing at least 6 (months) prior written notice to Landlord."	Many of the leases fail to provide a termination clause for the school. Should the school's needs change (it needs a significantly bigger space to add grades, enrollments are much lower than expected and continue at such levels for a long period of time, etc.) the school should be able to respond to those needs without having to renegotiate or litigate its way out of a lease that is no longer financially feasible of otherwise unreasonable.
Taxes and Utilities	Spell out who pays for what	Rent is just the beginning of tenant's payments. Schools may want to negotiate with the landlord for the landlord to pay property taxes while the school will pay for all of the utilities on the property.
Quiet Enjoyment	"Tenant shall peaceably hold and quietly enjoy the Premises without interruption by Landlord, any mortgagee, or holder of any deed of trust, or any other person, firm or corporation claiming under any of them."	Avoid any provision that allows Landlord to inspect the property unannounced during the school day. As a matter of safety for kids, the school should maintain the right to refuse any visitor to the school at any time but should also allow a landlord to inspect the premises at a mutually agreed upon time, if the landlord requests such a provision in the Lease.
Hazardous Materials	Lease should include assurances from the landlord that the premises have not been used to store hazardous wastes, is asbestos free, and is not currently subject to a lawsuit or other claim of violation of environmental laws.	Meets statutory requirements and provides protections for the students and faculty and staff at the school.
Insurance Requirements	No suggested language	Make sure there are no costly surprises in the insurance requirements. Earthquake insurance, for example, is expensive but makes sense in Utah, a requirement that the school have other insurance riders that do not necessarily apply to the state or that the school provide more insurance than seems reasonable should be avoided.
Indemnities	"Landlord hereby releases Tenant and Tenant hereby releases Landlord from and against any and all claims, demands, liabilities or obligations whatsoever for damage to the property, or loss of rents or profits of either Landlord or Tenant resulting from or in any way connected with any fire or accident or other casualty whether or not such fire, accident or other casualty shall have been caused by the negligence or contributory negligence of any Landlord or Tenant or by any agent, associate, employee or invitee of any of them, but only to the extent that such damage or loss is coverable under the policies of insurance required herein."	Some landlords may ask the tenant to hold the landlord harmless from any lawsuits arising out of the tenants actions. The landlord should agree to do the same for the tenant.
Outside Spaces, Signage, Etc.	Ensure provisions provide for ample space for playgrounds, sports fields (if needed), parking, sidewalks, and other expected uses. "Tenant may use up to .75 acres of contiguous unpaved, outdoor space for installation of play equipment (should be defined in the lease), including state or locally required surface materials, up to 100 parking spaces, ..." "Tenant may install a marquee sign on the property no higher than ____, directional signs for parking and ingress and egress, and identifying markers for the school. Signs larger than ____ must be approved in writing by Landlord prior to installation.	Schools do not want to open only to learn that they have no parking for faculty, no reasonable means for directing parent drop-off, and no area for kids to play. These items should be spelled out in the lease from the beginning and include who is responsible for maintaining the spaces. Landlord should not have any right to approve or disprove of sign style--font, message, etc.

The State Charter School Board now requires every charter school to submit both a copy of a prospective lease, agreement or contract and a completed *leasing checklist*, with any required materials, before the school may enter the lease, agreement or contract. Upon submission of the relevant lease, agreement or contract, along with the completed checklist and any required supporting materials, the charter school may enter into the lease, agreement or contract