

Appendix I

Department of Education Memorandum on “Hurricane Shelters in New Educational Facilities,” dated October 31, 2001

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FLORIDA DEPARTMENT OF EDUCATION

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DPBM No.: 02-42

October 31, 2001

MEMORANDUM

TO: District School Superintendents, Community College Presidents, and Educational Facilities Planners
FROM: Wayne V. Pierson 
SUBJECT: Hurricane Shelters in New Educational Facilities

The Department of Education has again been asked to reiterate the requirement that all construction of new educational facilities, including appropriate core facility additions to existing buildings, incorporate enhanced hurricane protection areas in their design. Section 235.26(8)(a), F.S., states the following:

“A facility, or an appropriate core facility area within a facility, for which a design contract is entered into subsequent to the effective date of the inclusion of the public shelter criteria in the code must be built in compliance with the amended code unless the facility or a part thereof is exempted from using the new shelter criteria due to its location, size, or other characteristics by the applicable board with the concurrence of the applicable local emergency management agency or the Department of Community Affairs. Any educational facility located or proposed to be located in an identified category 1, 2, or 3 evacuation zone is not subject to the requirements of this subsection. If the regional planning council region in which the county is located does not have a hurricane evacuation shelter deficit, as determined by the Department of Community Affairs, school districts within the planning council region are not required to incorporate the public shelter criteria into their construction of educational facilities.”

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The State Requirements for Educational Facilities, Section 7(24)(a), and the Florida Building Code, Section 423(24)(a), provides:

“New educational facilities for school boards and community college boards, unless specifically exempted by the board with the written concurrence of the applicable local emergency management agency or the Department of Community Affairs (DCA), shall have appropriate core facility areas designed as Enhanced Hurricane Protection Areas (EHPAs) in compliance with this section.”

New educational facilities have been interpreted to mean “new construction,” as defined in Section 1.2(56), SREF, and Section 423(4)(h), Florida Building Code, which includes additions to existing buildings. There are three exceptions: 1) if the new work is specifically exempted in writing by the applicable local emergency management agency, 2) if the new building(s) or addition is located in a category 1, 2, or 3 evacuation zone, and 3) if the local regional planning council region does not have a shelter deficit. The exception for one shelter within a three-mile radius no longer exists.

It is imperative that shelter space be provided in all appropriate new educational facilities so that the deficit in shelter space can be eliminated. In this light, you are encouraged to work with your county emergency management office prior to or during the development of a project to identify appropriate shelter space. The additional cost directly associated to the Enhanced Hurricane Protection Area (EHPA) is deducted from the total construction cost when applying for a SIT award.

Please note that the October 2001 Audit Report Number 02-055 for Hurricane Shelters and Grant Management for the Department of Community Affairs has identified a lapse in enforcement of the shelter criteria by school districts and community colleges. Of the 164 constructed or newly planned facilities examined by the auditor, one-third did not comply with the required shelter requirements.

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 Education Educational Facilities

235.26 State uniform building code for public educational facilities construction.--

(1) UNIFORM BUILDING CODE.--By July 1, 2001, a uniform statewide building code for the planning and construction of public educational and ancillary plants by district school boards and community college district boards of trustees shall be adopted by the Florida Building Commission within the Florida Building Code, pursuant to s. 553.73. Included in this code must be flood plain management criteria in compliance with the rules and regulations in 44 C.F.R. parts 59 and 60, and subsequent revisions thereto which are adopted by the Federal Emergency Management Agency. It is also the responsibility of the department to develop, as a part of the uniform building code, standards relating to:

- (a) Prefabricated facilities or factory-built facilities that are designed to be portable, relocatable, demountable, or reconstructible; are used primarily as classrooms; and do not fall under the provisions of ss. 320.822-320.862. Such standards must permit boards to contract with the Department of Community Affairs for factory inspections by certified building code inspectors to certify conformance with applicable law and rules. The standards must comply with the requirements of s. 235.061 for relocatable facilities intended for long-term use as classroom space, and the relocatable facilities shall be designed subject to missile impact criteria of s. 423(24)(d)(1) of the Florida Building Code when located in the windborne debris region.
- (b) The sanitation of educational and ancillary plants and the health of occupants of educational and ancillary plants.
- (c) The safety of occupants of educational and ancillary plants as provided in s. 235.06, except that the firesafety criteria shall be established by the State Fire Marshal in cooperation with the Florida Building Commission and the department and such firesafety requirements must be incorporated into the Florida Fire Prevention Code.
- (d) Accessibility for children, notwithstanding the provisions of s. 553.512.
- (e) The performance of life-cycle cost analyses on alternative architectural and engineering designs to evaluate their energy efficiencies.
 1. The life-cycle cost analysis must consist of the sum of:
 - a. The reasonably expected fuel costs over the life of the building which are required to maintain illumination, water heating, temperature, humidity, ventilation, and all other energy-consuming equipment in a facility; and
 - b. The reasonable costs of probable maintenance, including labor and materials, and operation of the building.
 2. For computation of the life-cycle costs, the department shall develop standards that must include, but need not be limited to:
 - a. The orientation and integration of the facility with respect to its physical site.
 - b. The amount and type of glass employed in the facility and the directions of exposure.

- c. The effect of insulation incorporated into the facility design and the effect on solar utilization of the properties of external surfaces.
 - d. The variable occupancy and operating conditions of the facility and subportions of the facility.
 - e. An energy-consumption analysis of the major equipment of the facility's heating, ventilating, and cooling system; lighting system; and hot water system and all other major energy-consuming equipment and systems as appropriate.
3. Life-cycle cost criteria published by the Department of Education for use in evaluating projects.
 4. Standards for construction materials and systems based on life-cycle costs that consider initial costs, maintenance costs, custodial costs, operating costs, and life expectancy. The standards may include multiple acceptable materials. It is the intent of the Legislature to require district school boards to comply with these standards when expending funds from the Public Education Capital Outlay and Debt Service Trust Fund or the School District and Community College District Capital Outlay and Debt Service Trust Fund and to prohibit district school boards from expending local capital outlay revenues for any project that includes materials or systems that do not comply with these standards, unless the district school board submits evidence that alternative materials or systems meet or exceed standards developed by the department.

It is not a purpose of the Florida Building Code to inhibit the use of new materials or innovative techniques; nor may it specify or prohibit materials by brand names. The code must be flexible enough to cover all phases of construction so as to afford reasonable protection for the public safety, health, and general welfare. The department may secure the service of other state agencies or such other assistance as it finds desirable in recommending to the Florida Building Commission revisions to the code.

(2) CONFORMITY TO FLORIDA BUILDING CODE AND FLORIDA FIRE PREVENTION STANDARDS REQUIRED FOR APPROVAL.--

(a) Except as otherwise provided in paragraph (b), all public educational and ancillary plants constructed by a district school board or a community college district board of trustees must conform to the Florida Building Code and the Florida Fire Prevention Code, and such plants are exempt from all other state building codes; county, municipal, or other local amendments to the Florida Building Code and local amendments to the Florida Fire Prevention Code; building permits, and assessments of fees for building permits, except as provided in s. 553.80; ordinances; road closures; and impact fees or service availability fees. Any inspection by local or state government must be based on the Florida Building Code and the Florida Fire Prevention Code. Each board shall provide for periodic inspection of the proposed educational plant during each phase of construction to determine compliance with the state requirements for educational facilities.

(b) A district school board or community college district board of trustees may conform with the Florida Building Code and the Florida Fire Prevention Code and the administration of such codes when constructing ancillary plants that are not attached to educational facilities, if those plants conform to the space size requirements established in the codes.

(c) A district school board or community college district board of trustees may not approve any plans for the construction, renovation, remodeling, or demolition of any educational or ancillary plants unless these plans conform to the requirements of the Florida Building Code and the Florida Fire Prevention Code. Each district school board and community college district board of trustees may adopt policies for delegating to the superintendent or community college president authority for submitting documents to the department and for awarding contracts subsequent to and consistent with board approval of the scope, timeframes, funding source, and budget of a survey-recommended project.

(3) ENFORCEMENT BY BOARD.--It is the responsibility of each district school board and community college district board of trustees to ensure that all plans and educational and ancillary plants meet the standards of the Florida Building Code and the Florida Fire Prevention Code and to provide for the enforcement of these codes in the areas of its jurisdiction. Each board shall provide for the proper supervision and inspection of the work. Each board may employ a chief building official or inspector and such other inspectors, who have been certified pursuant to chapter 468,

and such personnel as are necessary to administer and enforce the provisions of this code. Boards may also utilize local building department inspectors who are certified by the department to enforce this code. Plans or facilities that fail to meet the standards of the Florida Building Code or the Florida Fire Prevention Code may not be approved. When planning for and constructing an educational, auxiliary, or ancillary facility, a district school board must use construction materials and systems that meet standards adopted pursuant to subparagraphs (1)(e)3. and 4. If the planned or actual construction of a facility deviates from the adopted standards, the district school board must, at a public hearing, quantify and compare the costs of constructing the facility with the proposed deviations and in compliance with the adopted standards and the Florida Building Code. The board must explain the reason for the proposed deviations and compare how the total construction costs and projected life-cycle costs of the facility or component system of the facility would be affected by implementing the proposed deviations rather than using materials and systems that meet the adopted standards. The provisions of this subsection do apply to educational, auxiliary, and ancillary facility projects commenced on or after July 1, 1999.

(4) ENFORCEMENT BY DEPARTMENT.--As a further means of ensuring that all educational and ancillary facilities hereafter constructed or materially altered or added to conform to the Florida Building Code standards or Florida Fire Prevention Code standards, each district school board and community college district board of trustees that undertakes the construction, renovation, remodeling, purchasing, or lease-purchase of any educational plant or ancillary facility, the cost of which exceeds \$200,000, may submit plans to the department for approval.

(5) APPROVAL.--

(a) Before a contract has been let for the construction, the department, the board, or the board's authorized review agent must approve the phase III construction documents. A board may reuse prototype plans on another site, provided the facilities list and phase III construction documents have been updated for the new site and for compliance with the Florida Building Code and the Florida Fire Prevention Code and any laws relating to firesafety, health and sanitation, casualty safety, and requirements for the physically handicapped which are in effect at the time a construction contract is to be awarded.

(b) In reviewing plans for approval, the department, the board, or its review agent as authorized in s. 235.017, shall take into consideration:

1. The need for the new facility.
2. The educational and ancillary plant planning.
3. The architectural and engineering planning.
4. The location on the site.
5. Plans for future expansion.
6. The type of construction.
7. Sanitary provisions.
8. Conformity to Florida Building Code standards.
9. The structural design and strength of materials proposed to be used.
10. The mechanical design of any heating, air-conditioning, plumbing, or ventilating system. Typical heating, ventilating, and air-conditioning systems preapproved by the department for specific applications may be used in the design of educational facilities.
11. The electrical design of educational plants.
12. The energy efficiency and conservation of the design.
13. Life-cycle cost considerations.

14. The design to accommodate physically handicapped persons.
15. The ratio of net to gross square footage.
16. The proposed construction cost per gross square foot.
17. Conformity with the Florida Fire Prevention Code.

(c) The board may not occupy a facility until the project has been inspected to verify compliance with statutes, rules, and codes affecting the health and safety of the occupants. Verification of compliance with rules, statutes, and codes for nonoccupancy projects such as roofing, paving, site improvements, or replacement of equipment may be certified by the architect or engineer of record and verification of compliance for other projects may be made by an inspector certified by the department or certified pursuant to chapter 468 who is not the architect or engineer of record. The board shall maintain a record of the project's completion and permanent archive of phase III construction documents, including any addenda and change orders to the project. The boards shall provide project data to the department, as requested, for purposes and reports needed by the Legislature.

(6) REVIEW PROCEDURE.--The Commissioner of Education shall cooperate with the Florida Building Commission in addressing all questions, disputes, or interpretations involving the provisions of the Florida Building Code which govern the construction of public educational and ancillary facilities, and any objections to decisions made by the inspectors or the department must be submitted in writing.

(7) BIENNIAL REVIEW AND UPDATE; DISSEMINATION.--The department shall biennially review and recommend to the Florida Building Commission updates and revisions to the provisions of the Florida Building Code which govern the construction of public educational and ancillary facilities. The department shall publish and make available to each district school board and community college district board of trustees at no cost copies of the state requirements for educational facilities and each amendment and revision thereto. The department shall make additional copies available to all interested persons at a price sufficient to recover costs.

(8) EDUCATION FACILITIES AS EMERGENCY SHELTERS.--

(a) The Department of Education shall, in consultation with boards and county and state emergency management offices, include within the standards to be developed under subsection (1) public shelter design criteria that shall be incorporated into the Florida Building Code. The new criteria must be designed to ensure that appropriate core facility areas in new educational facilities can serve as public shelters for emergency management purposes. A facility, or an appropriate core facility area within a facility, for which a design contract is entered into subsequent to the effective date of the inclusion of the public shelter criteria in the code must be built in compliance with the amended code unless the facility or a part thereof is exempted from using the new shelter criteria due to its location, size, or other characteristics by the applicable board with the concurrence of the applicable local emergency management agency or the Department of Community Affairs. Any educational facility located or proposed to be located in an identified category 1, 2, or 3 evacuation zone is not subject to the requirements of this subsection. If the regional planning council region in which the county is located does not have a hurricane evacuation shelter deficit, as determined by the Department of Community Affairs, school districts within the planning council region are not required to incorporate the public shelter criteria into their construction of educational facilities.

(b) By January 31, 1996, and by January 31 every even-numbered year thereafter, the Department of Community Affairs shall prepare and submit a statewide emergency shelter plan to the Governor and the Cabinet for approval. The plan must identify the general location and square footage of existing shelters, by regional planning council region, and the general location and square footage of needed shelters, by regional planning council region, in the next 5 years. Such plan must identify the types of public facilities which should be constructed to comply with emergency shelter criteria and must recommend an appropriate, adequate, and dedicated source of funding for the additional cost of constructing emergency shelters within these public facilities. After the approval of the plan, a board may not be required to build more emergency shelter space than identified as needed in the plan, and decisions pertaining to exemptions pursuant to paragraph (a) must be guided by the plan.

(9) LOCAL LEGISLATION PROHIBITED.--After June 30, 1985, pursuant to s. 11(a)(21), Art. III of the State Constitution, there shall not be enacted any special act or general law of local application which proposes to amend, alter, or contravene any provisions of the State Building Code adopted under the authority of this section.

History.--s. 926, ch. 19355, 1939; CGL 1940 Supp. 892(312); s. 12, ch. 29754, 1955; s. 10, ch. 59-371; s. 117, ch. 65-239; s. 1, ch. 67-106; ss. 15, 18, 19, 35, ch. 69-106; s. 1, ch. 69-300; s. 1, ch. 70-196; s. 6, ch. 70-399; s. 9, ch. 74-374; s. 1, ch. 77-280; s. 15, ch. 77-458; s. 1, ch. 78-290; s. 1, ch. 79-71; s. 103, ch. 79-400; s. 9, ch. 80-414; ss. 27, 50, 52, ch. 81-223; ss. 10, 14, ch. 82-240; s. 1, ch. 83-163; s. 3, ch. 83-224; s. 1, ch. 84-349; ss. 16, 26, 27, ch. 85-116; ss. 1, 4, ch. 86-1; s. 1, ch. 88-202; s. 5, ch. 89-226; s. 15, ch. 89-278; s. 13, ch. 90-172; s. 11, ch. 90-241; s. 55, ch. 90-288; s. 2, ch. 90-320; s. 169, ch. 92-279; s. 55, ch. 92-326; s. 6, ch. 93-211; s. 6, ch. 94-292; ss. 18, 35, ch. 95-269; ss. 6, 11, ch. 95-341; s. 145, ch. 97-190; s. 6, ch. 97-265; s. 30, ch. 97-384; s. 16, ch. 99-329; s. 2, ch. 2000-140; s. 11, ch. 2000-141; s. 20, ch. 2001-61; s. 34, ch. 2001-186.

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