



Campus Administrative Policy

Policy Title: Real Estate Management-Space Acquisition and Use

Policy Number: 2042 Functional Area: **Finance**

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Supersedes: N/A, New Policy

Approved by:

Prepared by:
Reviewing Office: Executive Vice Chancellor for Administration and Finance
and Chief Financial Officer

Responsible Officer:

Applies to: University of Colorado Anschutz Medical Campus

A. INTRODUCTION

The purpose of this policy is to establish the University of Colorado Anschutz Medical Campus (CU Anschutz) real estate guidelines for the acquisition of lab, office, classroom, or storage space on the 9th & Colorado Campus, Downtown Campus, or the Anschutz Medical Campus or from third party vendors. Leases for any space must be negotiated through the CU Anschutz Division of Real Estate. It is the responsibility of every level of both academic and administrative personnel to ensure compliance with this policy. This policy applies to all CU Anschutz departments and programs that currently occupy space or are in need of space at the 9th & Colorado Campus, CU Denver, the Anschutz Medical Campus, or at any off campus location. (See Campus Policy 2027, Fiscal Policy for Facilities and Administrative Costs, Exhibit D for a list of on-campus and off-campus buildings.) The CU Anschutz Real Estate Division must be consulted before any department or program acquires additional space or vacates currently occupied space. This policy does not apply to acquisition of space by University Physicians, Inc., or in situations where CU Anschutz is the Landlord and is leasing its property to others.

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C. DEFINITIONS

1. Back-fill – The process of releasing space by identifying a new tenant prior to the current tenant vacating the space. Buyer – One to whom a grant of property or property rights is made. In the case of a lease, this is the tenant.
2. Grant (used as a verb) – To transfer an interest in real property, either the fee, or a lesser interest such as a lease or an easement.
3. Landlord – One who grants a property right. In the case of a lease, this the Landlord
4. Lease(s) – An agreement(s) whereby the owner of a real property (i.e., landlord) gives the right of possession to another (i.e., tenant) for a specified period of time (i.e., term) and for a specified consideration (i.e., rent).
5. Real Property – (1) land and anything permanently affixed to the land, such as buildings, fences and those things attached to the buildings, such as light fixtures, plumbing and heating fixtures, or other items that would be personal property if not attached. (2) may refer to rights in real property as well as the property itself.
6. Tenant – One who holds possession of a premise by permission of the landlord with a written agreement.
7. Tenant at Will – One who holds possession of a premise by permission of the landlord without a written agreement.
8. Tenant Improvements – Improvements made to leased premises for the benefit of the tenant. May be paid for by the landlord and amortized over the term of the lease, or may be paid for by the tenant, usually a one-time cash payment at lease commencement.
9. Top Set - The maximum amount of money available to be spent per the terms of a purchase order (P.O.) or contract.

D. POLICY

1. Facilities and space available at CU Anschutz exists for the purpose of supporting the

campus missions of education, research and public service. The Chancellor has authority and control over the assignment of facilities and space.

2. The State of Colorado Department of Personnel & Administration, through the State Buildings and Real Estate Program (SBREP) oversees all third party leases entered into by any of the agencies within the executive branch of state government, including higher education.
3. SBREP must assure that the leases in which the state engages not only will serve the needs of the agencies occupying the space, but that they also fulfill all of the specific requirements set out in the state constitution and statutes regarding what the state must do and what the State is forbidden to do in its leases, and that such leases represent fair value to the State in the prevailing market conditions.
4. Leases involving third party landlords are accomplished through the use of the State's contracted real estate broker, who is under contract with the state to provide tenant representation services. In the Denver metro area, CU Anschutz must use the State's contractor broker for any leasing activities (new lease, extension, or expansion). The only exceptions to this requirement are those leases, which the SBREP elects to exempt, in advance. Such exemptions are rarely granted and usually only in those instances when the lease is either inter-governmental or interagency.
5. In some instances CU Anschutz may wish to engage the State contracted real estate broker as a consultant for services such as a needs assessment or market research prior to program approval or appropriation of funds for a specific lease. CU Anschutz should contact the CU Anschutz Division of Real Estate for assistance in engaging the broker. An agreement for consulting services must be set out in a written document, either a state contract as defined in State of Colorado Fiscal Rule 3-1, or a fully executed State of Colorado purchase order which has attached to it a detailed proposal that describes the services to be provided, the applicable hourly rate, a "top set" or maximum amount and specific wording as follows, "*Execution of this document by or on behalf of the stated buyer constitutes the affirmation of such buyer that all funds required for payment of this purchase order during the current fiscal year are and will be available for such payment, and that buyer will make every good faith effort to see to it that such funds are also available for any further payments required on this purchase order in subsequent fiscal years.*"
6. State of Colorado Fiscal Rule 3-1.02 provides that a state agency shall negotiate and process a state contract when entering into a lease or a license involving payment by the State for the use of land, building, or other office or meeting space when the term is for more than 30 days. Exhibit A defines real estate terminology commonly found in real estate leases and contracts.
7. Among the provisions contained in the State of Colorado Fiscal Rules is the stipulation that the state controller shall execute all state contracts and that such contracts are not valid or binding without the state controller's or their designee's

signature. If an attempt is made to execute a lease or license without following these procedures, every person involved in incurring the obligation shall be jointly and severally liable for the obligation.

CCHE Requirements

1. Any acquisition or utilization of real property by a state supported institution of higher education, which is conditional upon or requires expenditures of State controlled funds or federal funds shall be subject to the approval of the commission, whether acquisition is by lease, lease-purchase, purchase, gift or otherwise. C.R.S. 23-1-106(8). This policy does not apply to property acquired by UPI, nor does it apply in the sale or disposition of property by CU Anschutz.

2. The dollar amount of each lease determines the requirement for CCHE review and approval. The categories and their requirement are: (1) leases of less than \$75,000 annually require the institution to report biannually, via an electronic filing. CCHE staff will review the information submitted for the waiver request and electronically transmit the waiver approval or denial to the Institution. Once CCHE approves such leases, they must be included in the appropriate biannual lease report. (2) leases greater than \$75,000 annually will need to be submitted as electronic program plans. The Office of Institutional Planning (OIP) writes the program plan. The Division of Real Estate will provide the OIP with the necessary real estate information and a departmental contact, who will be responsible for providing the programmatic information to the OIP. The OIP will forward the program plan to the President’s Office to forward to CCHE for approval.

3. The institution may not execute any lease until approval is received from the CCHE Executive Director or their designee per the procedure outlined above. Once CCHE approves them, the institution must include them in the appropriate biannual report.

E. PROCEDURE FOR OBTAINING SPACE ON CU ANSCHUTZ CAMPUSES

Department	Departments that have need for additional space must complete a Space Request Form (SRF). See Exhibit B. The appropriate Dean’s Office, Office of Academic Affairs, or Central Services and Administration <u>must</u> approve all space requests. Completed SRF’s will be returned to the CU Anschutz Division of Real Estate for review and allocation of space.
CU Anschutz Division of Real Estate	The CU Anschutz Division of Real Estate, in conjunction with the appropriate Dean’s Office, will review and assign the appropriate space for the Department’s needs. A copy of the SRF identifying the assigned space will be returned to the Department. If it is determined that space on campus is not available, off campus options will be reviewed.

Department	The CU Anschutz Division of Real Estate will forward a copy of the completed SRF identifying the assigned space to: Facilities Operations, Campus Police, Finance/Budget, Grants and Contracts, Telecom/IS, Facilities Projects, Graphic Information Systems, Space/Asset Management, Planning (OIP).
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F. PROCEDURES FOR OBTAINING SPACE OFF CAMPUS (THIRD PARTY LANDLORD)

Department	Complete a Space Request Form (SRF). The appropriate Dean's Office, Office of Academic Affairs, or Central Services and Administration must approve all space requests. The CU Anschutz Division of Real Estate will review the completed SRF and contact the State's contracted Real Estate Broker.
CU Anschutz Division of Real Estate	Forward a copy of the completed SRF to: Finance/ Budget, Space/Asset Management; Grants and Contracts, and Telecom/IS
	Coordinate the activities of the State's real estate broker on behalf of the Department. An initial meeting will be scheduled to review the Department's needs and expectations. The State's real estate broker will research the availability of space alternatives, discuss with the Department and schedule tours of the most appropriate locations. Concurrently the CU Anschutz Division of Real Estate will estimate the annual cost of the lease to determine if the lease requires pre-approval by CCHE. Any lease with an annual rent of \$75,000 or greater must be pre-approved by CCHE.
	Once the program plan has been approved by CCHE, the CU Anschutz Division of Real Estate will notify the State's broker to finalize the lease.
	The State's broker will then prepare the necessary copies of the lease agreement, obtain the landlord's and CU Anschutz signatures and route the lease for approval by CU Anschutz legal counsel, SBREP and the State Controller or designee. The CU Anschutz Division of Real Estate will track the lease routing and disperse copies of
	the fully executed lease to the appropriate parties. The tenant may not occupy the space prior to full execution of the lease agreement by the State Controller.

G. PROCEDURE FOR MAKING CHANGES TO OCCUPIED PREMISES (TENANT IMPROVEMENTS)

CU Anschutz Owned Property:	
Department	Complete a Project Request Form (PRF), Exhibit C, and submit it to Facilities Projects.
Facilities Project Manager	Coordinate construction of the requested changes.
Non-CU Anschutz Owned Property: (Third Party Landlord)	

Department	Departments that occupy space under a lease agreement with a third party landlord are bound by the terms of that lease. If any tenant improvements are contemplated subsequent to occupancy, the department should contact the Division of Real Estate for assistance. The lease agreement will address the procedure required by the landlord for any tenant improvements to the premises.
	Note: Any tenant improvements undertaken without following the terms of the lease will expose the CU Anschutz tenant to liability as well as endanger other tenants in the property.

H. PROCEDURE FOR VACATING SPACE

Department	Notify the CU Anschutz Division of Real Estate immediately. The CU Anschutz Division of Real Estate will be able to assist in coordinating the back-fill of that space on either campus. The Department is not allowed to make arrangements for the backfill of the space without first notifying the CU Anschutz Division of Real Estate.
	Departments that find that they no longer have a need for occupied space leased from a third party landlord must notify the CU Anschutz Division of Real Estate immediately. CU Anschutz is legally bound to the terms of the lease, including the payment of rent; however the Division of Real Estate may be able to backfill the space with another CU Anschutz tenant or negotiate a settlement with the landlord for early termination. CU Anschutz tenants that vacate third party leased space, prior to the lease expiration, are responsible for any liability incurred.

Notes

1. Dates of official enactment and amendments:

April 22, 2002: Adopted
 April 3, 2019: Modified

2. History:

April 3, 2019: Modified to reflect a Campus-wide effort to recast and revitalize various Campus policy sites into a standardized and more coherent set of chaptered policy statements organized around the several operational divisions of the university. University branding and links verified

3. Initial Policy Effective Date: April 22, 2002

4. Cross References/Appendix:

- Campus Policy 2027, Fiscal Policy for Facilities and Administrative Costs
- Colorado Revised Statutes
- State of Colorado Fiscal Rules
- State Building and Real Estate Programs Policies and Procedures
- CCHE Leasing Policy
- Exhibit A, Real Estate Terminology Commonly Found in Leases and Contracts
- Exhibit B, University of Colorado Denver Space Request Form
- Exhibit C, University of Colorado Denver Facilities Department Project Request Form