

STATE BUILDING CODE INTERPRETATION NO. I-20-03

November 24, 2003

The following is offered in response to your letter to me dated November 19, 2003 in which you seek a formal interpretation of the provisions of Section 118.3 of the BOCA National Building Code/1996 portion of the 1999 State Building Code.

Question: A municipality wishes to temporarily close an educational building and leave it vacant, but wishes to retain the option of re-opening the school at some future date. When the school is re-opened, will it be subject to the requirements of the building code in effect at the time of the re-opening?

Answer: No. As long as the building is left vacant and is not used for any purpose other than educational, and assuming that nothing happens to the building during its vacancy to create an unsafe condition or to bring it out of compliance with the code that was in effect at the time of construction, it may simply be placed back into service as though nothing had happened. The referenced code, at Section 118.3, states in part that "the use of a building or premises shall not be deemed to have changed because of a temporary vacancy..." Section 102.2 of the referenced code states in part that "the legal occupancy of any structure existing on the date of adoption of this code....shall be permitted to continue without change...." It follows then that as long as no change of occupancy occurs, the building can be temporarily vacant and at some future date, the educational occupancy can be reestablished without need of a building permit or building code review. The municipality could not, however, temporarily use the educational space for offices and then change it back into educational use without getting a building permit and providing code compliance for each change of occupancy.