



SD 42 POLICY: 6810

DISPOSAL OF LAND OR IMPROVEMENTS

Disposals of land or improvements in School District No. 42 will be guided by the following principles.

Board responsibility

The Board of Education is responsible for the disposal (including by sale, leases or the granting of a charge) of real property and may dispose of land or improvements (such as buildings affixed to land) subject to the orders of the Minister of Education.

If the Board, after considering future educational needs of the District, deems property (other than property subject to a Crown grant and held in trust for educational purposes) to be no longer required for educational purposes, it may dispose of such property, subject to the Orders of the Minister.

The Minister's Order (Disposal of Lands or Improvements Order) requires boards of education to develop and implement policies and procedures with respect to disposal of land or improvements and make them publicly available. The Board enacts this policy and the accompanying procedures accordingly.

Not applicable to Crown Grants

This policy and accompanying procedures do not apply to a disposal of property originally acquired by way of a Crown grant that is subject to a trust for educational purposes.

Consent of the Minister

In accordance with the orders of the Minister, the Board must obtain approval of the Minister of Education for a fee simple sale or a lease of 10 years or more (including all options and rights of renewal) (a "**long term lease**" in this policy and accompanying procedures) of land, improvements or both, unless the disposal is to another board or an independent school for educational purposes.

Delegation

The Board of Education may not delegate to staff the responsibility to finally approve disposals of real property or to deem property to be no longer required for educational purposes and the Board must authorize disposals by bylaw as required by the *School Act*. Subject to this requirement, the Secretary Treasurer is authorized to act on behalf of the Board and to enter into agreements on behalf of the Board, except where this policy or accompanying procedures refers to approval or waiver or consideration by the Board.

Disposals by fee simple sale or long-term lease

For disposals requiring the Minister's approval, the Board will abide by any applicable Minister's orders and any terms or conditions imposed by the Minister on the disposal.

Consideration for disposals

The Board recognizes its responsibility for stewardship of educational assets. When educational assets are disposed of (including temporary disposals by lease), the Board is responsible for ensuring that the value of those assets will be available for other educational use in the school district. In determining value, the Board may take into consideration any compensating benefits to the Board or a specific school.

Consultation

The Board may undertake consultation of the nature and to the extent that it considers appropriate to the property concerned before entering into a fee simple sale or a long term lease of property no longer required for the Board's educational use, or may dispense with consultation on the disposal.

Open process

Except for disposals to the Conseil scolaire francophone or other boards of education or to an independent school, fee simple sales and long-term leases will be conducted through a process that enables the community to know when the property is being offered for sale or long term lease and provides an opportunity for members of the public to acquire the property. The Board may authorize other specific exceptions to this requirement on terms that in the Board's opinion reflect fair market value, including, without limitation, a disposal:

- (a) to a nonprofit organization, public authority, government organization or community agency, for educational or community use;
- (b) as part of an exchange of land or improvements;
- (c) that is a further long term lease to an existing tenant; or
- (d) to an owner of adjoining land for the purpose of consolidating the adjoining land.

Financial viability

Any proposed transferee or lessee is expected to provide evidence that it has the ability to meet its financial obligations to the Board.

Transparency

The Board recognizes that information about pending disposals must be kept confidential in many circumstances when negotiations are ongoing in order to protect the Board's interests, but will report out to the extent it considers possible without prejudicing those interests and will ensure that information on completed transactions is accessible to the public.

Disposals by granting of charges

Disposals by the granting of charges on land, such as rights of way, easements, and covenants, will be based on compensation or benefit to the Board. A disposal should not prejudice any educational use of the related property. Legal and administrative costs incurred by the Board in granting a right of way or easement should normally be the responsibility of the grantee.

Compensation will be based on fair market value (or the impact of the granting of the charge on fair market value of the site) unless waived by the Board for the specific disposal.

Short term leases

Disposals by lease of less than 10 years including all rights or options to renew ("**short term leases**") will be guided by the following principles:

Cost recovery

Leases should generally recover all costs; the Board will not subsidize community use of facilities or sites from educational resources. Exceptions must be specifically authorized by the Board.

Short term leases of space within schools

Lease rates and conditions (including acceptable use) may take into account benefit to the school.

Compatible uses

Permitted uses under leases of premises within a school during regular hours or that involve common use with a school must not compromise safety of students attending the school and should be compatible with the school's functioning.

Alternative community or educational use

The Board will grant short term leases to the following types of entities: the Conseil scolaire francophone or a board of education or school district business company or school district foundation nonprofit organizations providing local services and activities, local government and local government agencies such as (but not limited to) recreation commissions, health and social service agencies (restricted to providing services restricted to children and/or youth if space is within a school) businesses and organizations providing childcare and early learning programs organizations serving adult learners (other than in a school that includes K-10 students), independent schools and other educational institutions, other community agencies or organizations specifically approved by the Board

PROCEDURES

1. DEFINITIONS

1.1 "Long term lease" means a lease that is for 10 years or more, including the cumulative total of all rights or options to renew.

1.2 "Short term lease" means a lease that is not a long term lease.

1. BYLAWS

2.1 All disposals of real property (land, interest in land, or improvements) must be authorized by Board bylaw.

1. SALES AND LONG TERM LEASES

The procedure to dispose of surplus land or improvements by sale and transfer of fee simple or by long term lease, (including leases of part of a building), is as follows:

3.1 Step 1: Identification of property as subject of possible disposal

3.1.1 The Board receives a report or reports that confirm the state of title and whether the property is subject to a Crown grant trust include projections of future enrollment growth or decline (including K-12, adult programs and early learning) as they affect the Board's need for the property in question.

3.1.2 The Board decides whether to:

(a) pursue or continue with short term arrangements, including short term leases, or
(b) consider long term lease or fee simple sale of the property and if so, whether to consult on disposal and alternate community use. (Consultation may be required by Board policy, by the Minister of Education as a condition of approval, or may be specifically directed by the Board even if not otherwise required.)

3.2 Step 2: Consultation on disposal and alternate community use (if required or if directed by the Board)

3.2.1 The Board establishes a consultation period to consult with the local community about the Board's proposed disposal and provides any specific directions

3.2.2 Consultation with the community shall include consideration of future enrollment growth in the district (including K-12, adult and early learning programs), if relevant to the property in question

- notification of local governments, and others whom the Board or board officers identify as community agencies or organizations that might be interested in a short term lease of the property or part of it
- notification of any existing tenants or licensees of space in the facility (other than casual users). The Board may (but not must) also notify any known interested parties.
- opportunity for the public to respond to the Board's proposed disposal
- the Board's consideration of input received as it relates to:
 - a decision whether to dispose of the property
 - a decision whether to proceed with short term arrangements for alternative community use

3.2.3 Newspaper advertisements may be placed and public meetings may be held, if necessary in the opinion of the Board (or the board officer acting on behalf of the Board), to adequately inform the public and facilitate input.

3.3 Step 3: Decision on disposal and instructions to Secretary Treasurer

3.3.1 The Board considers the input from the consultation process.

3.3.2 Having considered enrolment trends and the input from the consultation process, if the Board wishes to proceed with disposal of the property, it passes a resolution confirming that the property is not required for future educational purposes, instructing the Secretary Treasurer to proceed to make arrangements for disposal of the property, and providing any specific directions.

3.3.3 If the discussion is held *in camera* to protect the privacy or confidentiality of information and protect the interests of the Board, then the decision to proceed with arrangements for disposal shall be reported out, although specific directions given to the Secretary Treasurer may be withheld if necessary to protect the interests of the Board.

3.4 Step 4: Request for Ministry approval and other preliminary matters

3.4.1 If the Board decides to proceed with arrangements to dispose of the property, the Secretary Treasurer:

- (a) arranges for title search, one or more written appraisals, and site plan as required;
- (b) establishes allocation of the proceeds from the sale of the disposed property to the appropriate capital reserve in accordance with the *School Act*;
- (c) if required, requests the Minister of Education to approval disposal of the property;
- (d) carries out other preliminary matters.

3.5 Step 5: Disposal Process

3.5.1 Subject to exceptions provided for in the Policy, the Secretary Treasurer implements a disposal process that is likely in his or her judgment to provide a fair opportunity for members of the public to acquire the property and for the Board to obtain a fair market value for the property.

3.5.2 The Secretary Treasurer or designate proceeds to negotiate with potential purchasers; the Secretary Treasurer may enter into an interim agreement of sale (or lease as the case may be) on behalf of the Board, provided that it includes a condition precedent for passage of an authorizing bylaw.

3.6 Step 6: Disposal Bylaw

3.6.1 The Board enacts a bylaw to authorize the disposal of the property on the agreed terms and conditions. This normally follows removal of all other subject clauses and conditions precedent. The bylaw must include:

- (a) confirmation that the Board will not require the property for future educational purposes (or, for a long term lease, that the Board will not require the property for future educational use for the term of the lease.)
- (b) the name and facility number of the property,
- (c) the address and legal description of the property, and site plan if required to identify the property
- (d) the agreed terms and conditions, and
- (e) authority to the Secretary Treasurer to execute on behalf of the Board all related documentation required to complete the terms of the agreements.

3.6.2 If enacted in closed meeting, the disposal shall be reported at the Board's next open meeting.

3.7 Step 7: Execution of Documentation and completion of transaction; allocation of proceeds

3.7.1 All necessary documents will be executed within required time lines as required

3.7.2 Proceeds of sale or lease over five years are to be allocated between the restricted capital reserve ("sharable") and the local capital reserve ("non-sharable") in accordance with *School Act* s. 100.

3.8 Step 8: Notice to the Minister

3.8.1 Upon disposal of the property, the Secretary Treasurer promptly provides the Minister with:

(a) a copy of the Board's bylaw authorizing disposal of the property, and (b) written notification of the disposal and the allocation of the proceeds to the appropriate capital reserves

1. ROAD AND UTILITY DEDICATIONS; OTHER CHARGES ON TITLE; SHORT TERM LEASES

The procedure to dispose of property by way of a short term lease, a land dedication or a charge on title is as follows.

4.1 Step 1: Approval in principle

4.1.1 For a charge or road dedication, the Board considers the request, taking into consideration the impact on the property if the request is granted. The Board may provide approval in principle and make any specific directions.

4.2 Step 2: Negotiation

4.2.1 The Secretary Treasurer negotiates a lease or agreement consistent with Board policy and directions.

4.2.2 If money is to be paid, the Secretary Treasurer ascertains the allocation of proceeds.

4.3 Step 3: Bylaw

4.3.1 The Board passes a bylaw authorizing the lease, dedication or granting of charge.

4.4 Step 4: Execution of documents and completion of transaction

4.5 Step 5: Notification of Minister

4.5.1 The Secretary Treasurer notifies the Minister including a copy of the bylaw and a notification of the disposal and allocation of any proceeds as required by the *School Act*.

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