



## **SECTION 3000: FINANCES**

### **POLICY 3010: DISPOSAL OF LAND OR IMPROVEMENTS**

- *Date Adopted: February 20, 2013*
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#### **POLICY STATEMENT**

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.

The primary purpose of Board-owned property is to deliver and support educational programs to students served by the Board. If the Board no longer requires property for educational purposes, it must seek the approval of the Minister prior to disposing of the property by sale and transfer or by a lease of 10 years or more, unless the Board is selling or leasing land or buildings to another Board (including the Conseil scolaire francophone) or independent school for educational purposes.

The Board must engage in broad consultation and in enhanced planning regarding underutilized school buildings and other property owned by the Board prior to property disposition.

#### **RATIONALE**

Ministerial Order M193/08, *Disposal of Land or Improvements Order*, requires Boards of Education to develop and implement policies and procedures with respect to the disposal of land or improvements and to make them publicly available.

Future school space requirements for an expanded education mandate (such as early learning and all-day kindergarten) must be considered prior to disposing of currently underutilized or surplus property.

School buildings and property can become centres for delivering education and community services that meet the needs of our communities.



### **RATIONALE** *(continued)*

School space should be available for alternative community use, such as early learning, child care services, adult and industry training education programs, family resource centres, seniors' centres, public libraries, health care and therapy services, local social services, and community recreation programs.

### **LEGISLATION/REGULATIONS**

- *School Act* sections 65 (5), 73, 96 (3), 99 (2), 100 (2), and 168 (2)(p)(t)
- Ministerial Order M193/08, Disposal of Land or Improvements Order
- Ministerial Order M320/02, School Opening and Closure Order
- Ministry Policy: School Building Closure and Disposal Policy
- Ministry Policy: Allocation of Proceeds from the Disposition of Capital Assets Policy

### **ADDITIONAL DEFINITIONS**

**"Educational purposes"** means a use for delivering the K-12 educational program as well as any new educational initiatives, such as early learning.

**"Alternative community use"** means a use by a community agency or organization for land or improvements, owned by a Board, other than for the educational purposes of the Board.

**"A lease of 10 years or more"** means a lease of 10 years or more, including the cumulative total of all options and rights to extend or renew the lease.

### **POLICY**

After considering future educational needs of the school district, the Board may deem property (other than property subject to a Crown grant and held in trust for educational purposes) to be no longer required for educational purposes. This policy outlines the terms and conditions that the Minister will consider in the approval of the Board's request to dispose of real property, including the sale, exchange, or lease of 10 years or more of land or improvements, or both.

The Board must consider potential space needs for current and future educational programs, such as early learning programs. The Board should also consider that school buildings are valuable assets for alternative community uses.



### **POLICY** *(continued)*

With respect to surplus or under-utilized school space, the Board must consult with local government, community organizations, and the public on alternative community uses. This consultation must include:

- Consideration of future enrolment growth in the district, including Kindergarten to Grade 12, adult programs, and early learning;
- Consideration of alternative community use of surplus space in school buildings and other facilities; and
- A fair consideration of the community's input and adequate opportunity for the community to respond to the Board's plan for the school.

Only in exceptional circumstances should the Board consider permanently disposing of school property. Without the approval of the Ministry, the Board may only sell land or buildings to another Board or independent school for educational purposes. A Board may lease property for under 10 years according to its own policies and procedures to an entity for an alternative community use.

The Minister may approve a sale or lease of 10 years or more to an entity for use other than alternative community use. When such exceptional circumstances occur, the Board must confirm that it will not require the land or improvements for future educational or community purposes.

School property disposed of to an entity for use other than an educational or alternative community use must be sold through public tender or other competitive bidding process to ensure fair public access and market value is obtained.

School property disposed of to another Board or independent school for educational purposes or local government or community organization for alternative community use may be sold at less than market value.

### **PROCEDURES**

#### **1. Authorization**

- 1.1 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 the accompanying procedures refer to approval or waiver or consideration by the Board.



## **PROCEDURES** *(continued)*

### **2. Disposal Process**

- 2.1 If property is deemed to be surplus, the Board shall pass a resolution declaring the property surplus to the needs of the school district and instructing the Secretary Treasurer or designate to proceed with the real property disposal process. The Ministry shall be notified in writing of the Board's resolution.
- 2.2 Upon written receipt of the Minister's support of the property disposal, the Secretary Treasurer or designate will:
  - 2.2.1 confirm the state of title;
  - 2.2.2 undertake necessary steps to create the legal entity of the property to be disposed, if it is to be subdivided from a 'parent' property to remain in the ownership of the school district;
  - 2.2.3 arrange for the preparation of a legal survey plan showing the boundaries of the property to be disposed;
  - 2.2.4 initiate the disposal process normally through a public Request for Offer, unless the property is to be sold to another government, school board, independent school or tax-supported body, under which circumstances the Secretary Treasurer or designate shall negotiate the sale.
- 2.3 Fee simple sales and leases of 10 years or more will be conducted through a process that enables the community to know when the property is being offered for sale or lease and provides an opportunity for members of the public to acquire the property.

### **3. Bylaws**

- 3.1 Upon successful negotiation of a conditional sale agreement and in accordance with Ministerial Order 193/08 and section 65(5) of the *School Act* relating to a disposition of property the Board shall adopt a bylaw authorizing the disposal of the real property. The bylaw must include:
  - 3.1.1 confirmation that the Board will not require the land or improvements for future educational purposes,
  - 3.1.2 the name and facility number, if any, and
  - 3.1.3 the address and legal description.



**PROCEDURES** *(continued)*

- 3.2 Upon adoption of the real property disposal bylaw by the Board:
  - 3.2.1 The Minister shall, without delay, be provided the following documentation:
    - 3.2.1.1 a copy of the Board's bylaw authorizing disposal of the property; and
    - 3.2.1.2 written notification of the disposition and allocation of the proceeds as required under section 100(2) of the *School Act*.
  - 3.2.2 The transfer of title shall be completed in accordance with the conditional sale agreement.
  - 3.2.3 The sale of real property shall be accounted for as required by Section 100 of the *School Act* and in accordance with Generally Accepted Accounting Principles (GAAP).

**4. Land Leases**

- 4.1 All land leases of 10 years or more shall be considered as disposal of real property and treated the same as surplus property.
- 4.2 The Secretary Treasurer is the School District's authorized signatory for land leases of less than 10 years.
- 4.3 Leases shall be negotiated on a site-by-site basis with public and private interests.
- 4.4 Leases to private organizations shall maximize financial benefit to the School District.

**5. Granting of Charges and Transfers for Roads and Utilities**

- 5.1 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.
- 5.2 A disposal should not prejudice any educational use of the related property.
- 5.3 Legal and administrative costs incurred by the Board in granting a right of way or easement shall be the responsibility of the grantee.
- 5.4 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.



**PROCEDURES** *(continued)*

- 5.5 For road and utility dedications required as a condition of the school district's development of a property, the Board shall pass a bylaw authorizing the dedication(s) and shall, without delay, notify the Minister through deliver of a copy of the bylaw. The bylaw must include:
  - 5.5.1 the name of the requester(s) and the reasons for the dedication(s);
  - 5.5.2 confirmation that the dedication(s) will have no adverse effects on the delivery of educational programs in the School District now and in the foreseeable future;
  - 5.5.3 the name and facility number of the school property; and
  - 5.5.4 a plan showing the boundaries of the dedication(s).
- 5.6 If a segment of a property is required for road or utilities improvements, but not a condition of the school district's development of that property:
  - 5.6.1 the Secretary Treasurer shall negotiate the sale to recover at least fair market value for the segment;
  - 5.6.2 the Board shall pass a bylaw authorizing the disposal of the segment and shall, without delay, notify the Minister through delivery of a copy of the bylaw. The bylaw must include:
    - 5.6.2.1 the name of the purchaser and the sale value of the segment;
    - 5.6.2.2 confirmation that the sale of the segment will have no adverse effects on the delivery of educational programs in the school district now and in the foreseeable future;
    - 5.6.2.3 the name and facility number of the school property; and
    - 5.6.2.4 a plan showing the boundaries of the segment.