

ADMINISTRATIVE REGULATIONS

TITLE: DISPOSAL OF SURPLUS PROPERTY
CATEGORY: FACILITIES
NUMBER: 4040

I. Rationale:

The Board may approve the disposal of land or improvements (“Property”). These disposals include sales of land and buildings, leases with a term of 10 years or greater (“Long Term Lease”), rights-of way and easements. Property disposals are subject to Ministerial Order M193/08, the Disposal of Land or Improvements Order, and the *School Act*.

II. Practices:

A. The school district shall retain the title of any Property it is not using for school purposes until such time as the Board determines that the Property will no longer be required. During this period, the Secretary-Treasurer may lease the Property.

B. Prior to approving the disposal of Property, the Board must consider the future educational needs of the district, as well as alternative uses of the Property including development, rezoning and subdivision. Reasonable effort will be made to maximize the return to School District No. 46 (Sunshine Coast)

C. The Secretary-Treasurer shall obtain reasonable, independent evidence of the fair market value of the Property or interest to be granted. Fair market value means the amount, price, consideration or rent that would be obtained by a Board of Education in an arm’s length transaction in the open market between willing parties acting in good faith.

D. The Secretary-Treasurer must complete a title search and check for a Crown Grant Trust Condition before disposing of a Property.

E. The Board will approve disposition of Property with a Disposal Bylaw. The Disposal Bylaw will be approved in accordance with the Board’s Procedural Bylaw. The Disposal Bylaw authorizing the disposal of Property owned or administered by the Board, made pursuant to section 65(5) of the *School Act*, must include:

1. confirmation that the Board will not require the Property for future educational or district purposes;
2. the name and facility number of the Property, and;
3. the address and legal description of the Property.

F. When the Board intends to dispose of a Facility by a fee simple transfer or Long Term Lease of a Facility to a transferee or lessee other than another school board or an independent

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school for educational purposes, the Board shall obtain Ministry approval.

G. If all tenders are lower than the expected fair market value, the Secretary-Treasurer may negotiate with the highest bidder or re-advertise the sale.

H. The Board shall promptly notify the Minister of any disposal of Property and the allocation of the proceeds as required under Section 100(2) of the *School Act*, and promptly deliver to the Minister a copy of the bylaw approving the disposal.

I. The Board shall offer to dispose of the Property in a public tender or other competitive bidding process, unless the Board proposes to dispose of the Property:

1. to a not for profit corporation,
2. to a public authority,
3. to a person who, as part of the consideration for the disposition, will exchange Property or an improvement with the Board,
4. to a person under a partnering agreement that has been the subject of a process involving the solicitation of competitive proposals, or
5. to an owner of adjoining land for the purpose of consolidating the lands.

J. The Board must only dispose of a Property by fee simple transfer or Long Term Lease through a public process as follows:

1. If the disposition is to a person referred to in Section 9, then the Board may only proceed with the disposal after it has passed a bylaw at a public meeting of the Board approving the disposal, provided that the Board has published, on its publicly accessible website or in some other public manner, notice of its agenda at least 48 hours prior to the meeting, and the notice includes:

- a) a description of the Property,
- b) the person or public authority who is to acquire the Property under the proposed disposition,
- c) the nature and, if applicable, the term of the proposed disposition, and
- d) the consideration to be received by the Board for the disposition.

2. For all other dispositions by fee simple transfer or Long Term Lease, the Board shall post at the Property a sign visible from a public street indicating the nature of the proposed disposition, and the Board shall publish on its publicly accessible website or in some other public manner for at least 2 consecutive weeks a notice that includes:

- a) a description of the Property,

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- b) the nature and, if applicable, the term of the proposed disposition,
- c) the process by which the Property may be acquired, and
- d) the sentence "The highest or any tender may not necessarily be accepted."

3. Any proposed transferee or lessee of a Property must satisfy the Board that it has the ability to meet its financial obligations to the Board, and the Board must be satisfied that the disposition of the Property is at fair market value.

Received: December 2015

References: Board Policy 12.6, 16, School Act 96, Ministerial Order M193/08