

Book	Policy Manual
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Title	Vol. 36, No. 1 - August 2017 Revised DISPOSITION OF REAL PROPERTY/PERSONAL PROPERTY
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### 7300 - **DISPOSITION OF REAL PROPERTY/PERSONAL PROPERTY**

The Board of Education believes that the efficient administration of the District may require the disposition of real property and/or personal property that is no longer necessary to meet the educational or operational needs of the School District.

"Real Property" means land, including land improvements, structures and appurtenances thereto, but excludes moveable machinery and equipment.

"Personal Property" means tangible property other than real property. It may be tangible, having physical existence, or intangible and may include automotive vehicles, equipment, and materials.

**[X]** All property considered for disposition ~~(sale) (shall)~~ **(may)** be subjected to a current, outside, professional appraisal prior to the solicitation of offers.

#### **Disposition of Personal Property under \$10,000**

Personal property, the value of which does not exceed \$10,000, shall be disposed of by the Superintendent in such a manner as will be in the public interest and benefit the School District (see Policy 7300 - Disposition of Real Property/Personal Property and Policy 7310 - Disposition of Surplus Property). If the Board decides to trade an item of personal property as a part or an entire consideration on the purchase price of an item of similar personal property, the Board may trade the personal property upon such terms as are agreed upon by the parties.

#### **Disposition of Real Property under \$10,000**

Real property, the value of which does not exceed \$10,000, shall be disposed of by the Board in such manner as will be in the public interest and benefit to the School District and may be accomplished by private sale. If the Board identifies a parcel of real property that it determines is needed for school purposes, the Board may, upon majority vote of the members of the Board, acquire such parcel by exchanging its real property for the parcel or using the real property as part or an entire consideration for the purchase price of the identified real property. Any exchange or acquisition shall be made by conveyance executed by the President and the Treasurer of the Board.

#### **Disposition of Personal and Real Property over \$10,000**

Property, (personal and real), the value of which exceeds \$10,000, shall be sold at public auction to the highest bidder in accordance with law. The Board may offer real property for sale as an entire tract or in parcels.

##### A. Unless the property is being:

1. sold to an exempt entity, as defined in R.C. 3313.41(C);
2. sold and/or leased to a community school or the board of trustees of a college preparatory boarding school, or a STEM school as set forth in R.C. 3313.411 or 3313.413; or
3. ~~sold to a community school or the board of trustees of a college preparatory boarding school, as set forth in R.C. 3313.41(G); or~~
4. exchanged for an identified parcel of real property that the Board determines it needs for school purposes or the property is being used as part or an entire consideration for the purchase price of the identified real property, pursuant to R.C.

3313.41(F); or

5. traded as a part or an entire consideration on the purchase price for a similar item of personal property upon such terms as agreed to by the parties to the trade pursuant to R.C. 3313.41~~(E)~~(D) or

~~The~~the District shall attempt to sell the property by public auction after giving at least thirty (30) days notice of the auction by:

1. ~~(X-)~~ publication in a newspaper of general circulation; or
2. ~~(-)~~ posting notices in five (5) of the most public places in the District in which the property, if it is real property, is situated, or if it is personal property, in the District of the Board that owns the property.

B. If, after the property has been offered once by public auction, no acceptable bids have been received, the District may sell the property at private sale. The following procedures shall apply:

1. ~~(X-)~~ Regardless of how the property was offered at public auction, at a private sale, the Board shall, as it considers best, sell real property as an entire tract or in parcels. Personal property shall be sold in either a single lot or several lots.
2. ~~(X-)~~ All written offers on real property under consideration for disposition shall be presented as an item on the agenda of a public Board meeting. A preliminary review of offers to purchase or lease shall include: source of offer, date of offer, expiration date of offer, and intended use of property.
3. ~~(X-)~~ Written offers shall be referred to the Board Finance Committee for review and recommendations. Offers, when received, will be distributed to the members of the Board.
4. ~~(X-)~~ All property considered for lease or sale shall be reviewed by the Board prior to solicitation of offers. The solicitation of offers by the Board shall include an expiration date.
5. ~~(X-)~~ The authorized agents of the Board are to review all purchase or lease offers pertaining to sale or lease of property shall be selected by legal counsel and the \_\_\_\_\_. The Board shall give final approval of all contracts.
6. ~~(X-)~~ In consideration of the best interest of the District and of the residents and taxpayers, the Board reserves the right to reject any and all offers at its sole discretion, regardless of price and terms.
7. ~~(X-)~~ Potential purchasers or lessees shall demonstrate financial capability to meet the terms and conditions of their purchase or lease offer.
8. ~~(X-)~~ Potential purchasers shall demonstrate reasonable likelihood of obtaining necessary city/township approvals and/or compliance with city/township zoning ordinances.

C. If the Board decides to dispose of real property, prior to disposing of the property in the manner set forth above, the Board shall first offer the property to the governing authorities of all start-up community schools, the board of trustees of any college preparatory boarding schools, and the governing bodies of any STEM schools located within the territory of the District. The Board shall give priority to governing authorities of high-performing community schools that are located within the territory of the District. If more than one (1) governing authority of a high-performing community school offered the property notifies the Treasurer in writing of its intent to purchase the property within sixty (60) days after the offer is made, the Board shall conduct a public auction utilizing the process described above. If no governing authority from a high-performing community school expresses an intent to purchase the property within sixty (60) days after the offer is made, the Board shall proceed with the offers from all other governing authorities of the start-up community schools and the board of trustees of any college preparatory boarding school and the governing bodies of any STEM schools located within the territory of the District.

D. ~~If the Board decides to dispose of real property, prior to disposing of the property in the manner set forth above, the Board shall first offer the property to the governing authorities of high-performing community schools and any newly established community schools that are implementing a community school model that has a track record of high-quality academic performance, as determined by the Department of Education. If no governing authority from either type of community school expresses an interest in the property within sixty (60) days after the offer is made, the Board must offer the property for sale to the governing authorities of the start-up community schools and the board of trustees of any college preparatory boarding school located within the territory of the District.~~

1. The Board shall offer the property to any community school governing authority, ~~and~~ college preparatory boarding school board of trustees or governing body of a STEM school at a price that is not higher than the appraised fair market value of the property as determined in an appraisal of the property that is not more than one (1) year old.
2. In the event that more than one (1) community school governing authority, ~~or~~ college preparatory boarding school board of trustees or STEM school governing body notifies the Treasurer of its intent to purchase the property within the prescribed time, the Board shall conduct a public auction utilizing the process described above. ~~accepts the offer made by the Board, the~~

~~property shall be sold to the community school governing authority or board of trustees that accepted the offer first in time.~~

**[DRAFTING NOTE: The Board may dispose of the property by public auction only if no high performing community school, start-up community school governing authority, college preparatory boarding school board of trustees or STEM school governing body that are located within the territory of the District accepts the Board's offer within sixty (60) days.]**

~~[The Board may dispose of the property by public auction only if no start-up community school governing authority or college preparatory boarding school board of trustees accepts the Board's offer within sixty (60) days after the subsequent offer.]~~

#### E. Disposition of Unused School Facilities

1. "Unused School Facilities" means any real property that has been used by the District for school operations, including but not limited to academic instruction or administration, since July 1, 1998, but has not been used in that capacity for two (2) years.
2. The Board shall first offer any unused school facilities it owns for lease or sale to the governing authority of any community school, the board of trustees of any college preparatory boarding school, and the governing bodies of any STEM schools that are located within the territory of the District.
3. ~~The Board shall first offer any Unused School Facilities it owns for lease or sale to the governing authority of any high-performing community school as defined by State law. If no governing authority accepts the offer of lease or sale within sixty (60) days, then the Board must next offer Unused School Facilities to the governing authority of any community school or the board of trustees of any college preparatory boarding school that is located within the territory of the District.~~

The Board shall give priority to the governing authorities of high-performing community schools that are located within the territory of the District.

At the same time the Board makes the offer to lease or sale, the Board may, but is not required to, offer the property for lease or ~~sale~~sell to the governing authority of any community school with plans, as stated in applicable contracts, either to relocate to or add facilities in the District.

4. If only one (1) governing board of a high-performing community school accepts the Board's offer within the prescribed time, the Board shall sell or lease the property to that party for the appraised fair market value of the property as determined in an appraisal that is not more than one (1) year old. If more than one (1) governing board of a high-performing community school offered the property accepts the Board's offer within sixty (60) days, the Board shall conduct a public auction utilizing the process described above or, in the event of a lease, the Board shall conduct a lottery to select the one (1) qualified governing authority to which the Board shall lease the property.
5. ~~If more than one (1) qualified governing board accepts the Board's offer within sixty (60) days, the Board shall conduct a public auction utilizing the process described above. Only the parties that notify the Board within sixty (60) days may offer a bid at the auction. The Board is not required to accept a bid that is lower than the appraised fair market value of the property as determined by an appraisal that is no more than one (1) year old.~~

If no governing authority of a high-performing community school notifies the Treasurer of its intent to purchase or lease the property within the prescribed time, the Board shall then proceed with the offers from all other start-up community schools, college-preparatory boarding schools, and STEM schools that responded within the prescribed time. If more than one such entity notifies the Treasurer of its intent to purchase or lease the property, the Board shall conduct a public auction or, in the event of a lease, a lottery to select the one qualified governing authority to which the Board shall lease the property.

Only the parties that notify the Board within sixty (60) days may offer a bid at the auction or participate in a lottery. The Board is not required to accept a bid that is lower than the appraised fair market value of the property as determined by an appraisal that is no more than one (1) year old.

6. Any subsequent lease or sale of the property shall proceed in accordance with law.
7. If no governing authority of any start-up community school or STEM school or board of trustees accepts the offer to lease or buy the property within sixty (60) days after the subsequent offer is made, the Board may offer the property for sale or lease to any other permissible entity.

F. Further, the Board may dispose of property upon the majority vote of the members of the Board and a concurring vote of the legislative authority of a municipal corporation, declaring that an exchange of real property held by the District for school purposes for real estate held by the municipal corporation for municipal purposes will be mutually beneficial to both the District and the municipal corporation. The exchange may be made by conveyances that are executed by the President and Treasurer of the Board and the Mayor and Clerk of the municipal corporation, respectively.

- G. The Board President and Treasurer shall execute and deliver deeds or other necessary instruments of conveyance to complete any sale or trade under this policy.

#### **Donation of Real or Personal Property**

- A. If the School District has property that the Board, by resolution, determines is not needed for school purposes, is obsolete, or is not fit for the use for which it was acquired, the Board may donate the property if the estimated fair market value of such property is \$2,500 or less in the opinion of the Board. The property may only be donated to an eligible 501(c)(3) nonprofit organization located in the State of Ohio and exempt from Federal income taxation under 26 U.S.C. 501(a) and 501(c)(3).
- B. Prior to donating the property, the Board shall adopt a resolution that contains the following:
1. a statement expressing the Board's intent to make unneeded, obsolete or unfit-for-use, District property available to nonprofit organizations;
  2. guidelines and procedures the Board considers to be necessary to implement the donation program;
  3. an indication of whether the District will conduct such program or by a representative under contract with the Board;
  4. contact information for such representative, if the person is known when the resolution is adopted;
  5. a requirement that any nonprofit organization desiring to obtain donated property submit a written notice to the board or its representative that includes:
    - a. evidence that the organization is a nonprofit organization that is located in the State of Ohio and exempt from Federal income taxation;
    - b. a description of its primary purposes;
    - c. a description of the type or types of property the organization needs; and
    - d. the name, address, and telephone number of a person designated by the organization to receive donated property as its agent.
- C. Upon the adoption of the resolution, the Board shall publish at least twice in a newspaper of general circulation, notice of its intent to donate unneeded, obsolete, or unfit-for-use property to eligible nonprofit organizations. The notice must also include a summary of the information provided in the resolution. A similar notice must also be continually posted in the Board's office and on the District's Internet website, if one exists. The second and subsequent notices shall be posted not less than ten (10) and not more than twenty (20) days after the previous notice.
- D. The Board or its representative must maintain a list of:
1. all eligible 501(c)(3) nonprofit organizations that submit a written notice described above; and
  2. a list of all real or personal property that qualifies for the program.
- The list of qualifying property must be continually posted at the same locations at which the resolution creating the program must be posted.
1. An item of property on the list must be donated to the 501(c)(3) organization that first declares to the Board or its representative its desire to obtain the item unless the Board previously established in a separate and distinct resolution, a list of eligible 501(c)(3) organizations that are to be given priority for an item's donation.
  2. The resolution giving priority to certain nonprofit organizations must specify the reasons for giving the organizations this priority. Such priority may be given based on a direct relationship between the purposes of the organization and specific purposes of the programs provided or administered by the Board.
- E. Members of the Board must consult with the Ohio Ethics Commission and comply with R.C. Chapters 102 and 2921 when donating property to a 501(c)(3) organization of which a Board member, his/her family member(s) or a business associate(s) of a Board member is a trustee, officer, Board member, or employee.

#### **Proceeds from the Sale of Real Property**

When the Board disposes of real property pursuant to R.C. 3313.41, 3313.411, or 3313.413, the proceeds received from the sale shall be used for either of the following purposes: 1) to retire any debt that was incurred by the District with respect to that real property - any proceeds in excess of the funds necessary to retire that debt may be paid into the District's capital and maintenance fund and used only to

pay for the costs of non-operating capital expenses related to technology infrastructure and equipment to be used for instruction and assessment; or 2) paid into a special fund for the construction or acquisition of permanent improvements.

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R.C. 3313.17, 3313.40, 3313.41, 3313.411, 3313.413, 5705.10

2 C.F.R. 200.78, 200.85

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Legal R.C. 3313.17, 3313.40, 3313.41, 3313.411, 3313.413, 5705.10

2 C.F.R. 200.78, 200.85

Last Modified by Beth Rutledge on June 18, 2018