

POLICY

SCHOOL DISTRICT NO. 53
(Okanagan Similkameen)

Disposal of Land or Improvements, Leases ...

Reference: C-3

Approved: April 30, 2008

DISPOSAL OF LAND OR IMPROVEMENTS, LEASES, RIGHTS OF WAY AND EASEMENTS

The Board of Education may dispose of property owned or administered by the Board including land and improvements, leases (short-term and long-term), rights of way and easements under the authority of section 96(3) of the *School Act* and Ministerial Order M16/03. The authorization for disposal of land or improvements must include consideration of the future educational needs of the School District, disposition through a public process, and disposition at fair market value.

As required under section 65(5) of the *School Act*, the Board may exercise a power with respect to the disposal of property owned or administered by the Board only through a bylaw.

This policy does not apply to grants of Crown Land, as described in section 99 of the *School Act*.

The Minister of Education will be notified of the disposal of land or improvements without delay by providing the Minister with a copy of the bylaw. The Minister of Education will also be provided with written notification of the disposition and allocation of the proceeds as required under section 100 (2) of the *School Act*.

The Board of Education may consider alternate uses for surplus classrooms, portions of buildings, and portions of sites before, during or after regular school hours. Any leases that share space or facilities with an operational school during regular school hours, must consider the safety of the students attending the school and ensure that such uses are congruent with educational instruction and programs. All leases must recover all costs and the School District will not subsidize any community use of the facility or school site from instructional resources.

Policy G-7 Community Use will generally apply to rental agreements as defined below while this policy will govern lease agreements.

Definitions

1. "fair market value" means the amount, price, consideration or rent that would be obtained by the Board in an arm's length transaction in the open market between willing parties acting in good faith, and may include similar property of comparable value received in exchange for property transferred by the Board.
2. "lease" means every agreement whereby the Board, as landlord, confers upon another person, as tenant, the exclusive right to occupy land, a building, or a portion of land or a building
 - a) for a term of at least 3 months, or
 - b) in the discretion of the Board, for a term of less than 3 months.

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3. “rental agreement” means

- a) an ad hoc agreement to use land, a building, or a portion of land or a building, between the Board and a third party where use is non-exclusive (i.e., the Board may permit others to also use the land or building and/or the Board may move the group to other space to accommodate school programming needs), or
- b) in the discretion of the Board, an agreement whereby the Board, as landlord, confers upon another person as tenant, the exclusive right to occupy land, a building, or a portion of land or a building for a term of less than 3 months. Rental agreements shall be governed through either *Policy G-7 Community Use* or Joint Use Agreements with a local government authority.

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In determining whether to dispose of Land or Improvements (“Facility”), the Board will use the following procedures:

1. Each case will be considered on its own merits.
2. When the Board has decided that a Facility is no longer required to serve the needs of the District and will not be required for future educational purposes, the Board will dispose of the Facility through a public process. Unless Item 3 applies, the Board must make the Facility to be disposed of available to the public on the terms the Board proposes.
3. The Board is not required to make a Facility available to the public if the Board proposes to dispose of the Facility:
 - a) to a not for profit corporation;
 - b) to a public authority;
 - c) to a person who, as part of the consideration for the disposition, will exchange land or an improvement with the Board;
 - d) to a person under a partnering agreement that has been the subject of a process involving the solicitation of competitive proposals; or
 - e) or to an owner of adjoining land for the purpose of consolidating the lands.
4. Regardless of whether Item 3 applies, the Board must dispose of a Facility through a public process as follows:
 - a) If the disposition is to a person referred to in Item 3, 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, at least seven (7) days prior to the meeting, a notice that the Board will consider the disposal. The notice published by the Board must include:
 - i) a description of the land or improvements;
 - ii) the person or public authority who is to acquire the property under the proposed disposition;
 - iii) the nature and, if applicable, the term of the proposed disposition; and
 - iv) the consideration to be received by the Board for the disposition.

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- b) For all other dispositions, the Board will post at the Facility, a sign visible from a public street indicating the nature of the proposed disposition, and the Board will publish a notice in a local newspaper for at least two (2) consecutive weeks that includes:
 - i) a description of the land or improvements;
 - ii) the nature and, if applicable, the term of the proposed disposition; and
 - iii) the process by which the land or improvements may be acquired.
5. Any proposed transferee or lessee of a Facility 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 Facility is at fair market value.
6. The Board may place any operational restrictions concerning appropriate property usage on any lease. Such restrictions will be specified in the lease agreement.