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## DISPOSAL OF DISTRICT ASSETS

### Background

The Board has the authority under the *School Act* subject to Ministerial Order 193/08 to dispose of District property that will not be needed for future educational purposes, including land and improvements, leases, rights of way and easements.

The disposal process of District land or improvements will include:

- Consideration of the future educational needs of the District.
- Disposition through a public process.
- Ministry approval when required by law.

Disposition will typically be made for fair market value unless the District's goals, principles or criteria suggest disposition at a lower value is appropriate.

### Definitions

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.

Disposition means sale or lease of land or facilities.

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

Facility means land, improvements, or both.

Fair market value means the amount, price, consideration or rent that would be obtained by a school board in an arm's length transaction in the open market between willing parties acting in good faith.

Independent School means independent school as defined in the *Independent School Act*.

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

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### Procedures

1. The District may:
  - 1.1. Dispose of a facility by fee simple transfer or by a lease for a term of ten years or more, including all options and rights of renewal to another school Board, conseil scolaire francophone or an independent school for educational purposes.
  - 1.2. With the approval of the Minister, 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, conseil scolaire francophone or independent school for educational purposes.
  - 1.3. Dispose of a facility by a lease for a term of less than ten years, including all options and rights of renewal.
  - 1.4. Dispose of an interest in a facility that is less than a fee simple interest, such as an easement, covenant or right of way.
2. The District shall not proceed with a disposal as referred to in clause 1.2 above unless:
  - 2.1. The District has considered the current and future educational needs of the District, including early learning and adult education, and is satisfied that the facility will not be required for the District to meet those needs.
  - 2.2. The District has considered potential alternative uses of the facility for community purposes other than the educational purposes of the District, after broad and extensive consultation with local government, community organizations and the general public.
  - 2.3. The disposal has been approved by the Minister.
3. Any disposal of a facility by fee simple transfer or long-term lease shall only be made in accordance with the following process:
  - 3.1. The Board shall offer to dispose of the facility in a public tender or other competitive bidding process, unless the Board proposes to dispose of the facility:
    - 3.1.1. to a not-for-profit corporation and/or as described in clause 1.1 above;
    - 3.1.2. to a public authority;
    - 3.1.3. to a person who, as part of the consideration for the disposition, will exchange land or an improvement with the District;
    - 3.1.4. to a person under a partnering agreement that has been the subject of a process involving the solicitation of competitive proposals, or,
    - 3.1.5. e) to an owner of adjoining land for the purpose of consolidating the lands.

- 3.2. Regardless of whether clause 3.1 above applies, the District must only dispose of a facility by fee simple transfer or long-term lease through a public process as follows:
    - 3.2.1. If the disposition is to a person referred to in clause 3.1 above, then the District may only proceed with the disposal after the Board 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 ([www.sd47.bc.ca](http://www.sd47.bc.ca)) or in some other public manner, notice of its agenda at least seven days prior to the meeting, and the notice includes:
      - 3.2.1.1. a description of the facility.
      - 3.2.1.2. the person or public authority who is to acquire the facility under the proposed disposition.
      - 3.2.1.3. the nature and, if applicable, the term of the proposed disposition.
      - 3.2.1.4. the consideration to be received by the District for the disposition.
    - 3.2.2. For all other dispositions by fee simple transfer or long term lease the District shall post at the facility a sign visible from a public street indicating the nature of the proposed disposition, and the District shall publish a notice in a local newspaper for at least 2 consecutive weeks that includes:
      - 3.2.2.1. a description of the facility.
      - 3.2.2.2. the nature and, if applicable, the term of the proposed disposition.
      - 3.2.2.3. the process by which the facility may be acquired.
  - 3.3. Any proposed transferee or lessee of a facility must satisfy the District that it has the ability to meet its financial obligations to the District, and the District must be satisfied that the disposition of the facility is at fair market value.
  - 3.4. Any disposal of an interest in land or improvements, including without limitation by fee simple transfer, road dedication, long term lease, short term lease or by granting of less than a fee simple interest, such as an easement, covenant or right of way, shall only be completed by the Board after approval of a capital bylaw authorizing the disposal, which bylaw shall include:
    - 3.4.1. a description of the disposal, the name of the grantee and the purpose of the disposal;
    - 3.4.2. confirmation that the Board will not require the facility for future educational purposes, and,
    - 3.4.3. the name, facility number, address, and legal description of the affected Facility.
4. The following applies to a disposal as referred to in clauses 1.1, 1.3 or 1.4 above and to clause 1.2 provided the requirements in section 2 above have been met:
    - 4.1. Once the Board has found a successful purchaser a bylaw authorizing the disposal will be made pursuant to section 65(5) of the *School Act*. The bylaw must include confirmation that

the Board will not require the proposed facility for future educational purposes, and the name, facility number, address, and legal description of the affected facility.

- 4.2. The Board will instruct senior staff to proceed with the disposal and the Secretary Treasurer will:
  - 4.2.1. Undertake the necessary steps to create a separate legal parcel for the facility if it is to be subdivided from a “parent” property to remain in the ownership of the Board.
  - 4.2.2. Arrange for preparation of a legal survey plan showing the boundaries of the facility or interest to be granted, where appropriate.
  - 4.2.3. Obtain an independent professional appraisal of the fair market value of the interest to be granted.
  - 4.2.4. Initiate the disposal process described in Section 3 of these procedures.
  - 4.2.5. In the case of a sale of a facility, establish where the proceeds shall be credited, either to the shareable capital reserve or the local non-shareable capital reserve in accordance with section 100 of the *School Act*.
  - 4.2.6. Notify the Minister of Education of the disposal made as required under section 100(2) of the *School Act*, and promptly deliver to the Minister a copy of the bylaw approving the disposal.

Reference: Sections 22, 23, 65, 85, 96, 100, 106.2, 106.3, 106.4, 110, 111, 112, 112.1, 113, 114, 115, 117, 118 *School Act*  
Ministerial Order M193/08

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