

Book	Policy Manual
Section	7000 Property
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7300 - **DISPOSITION OF REAL PROPERTY-marked**

The School Board believes that the efficient administration of the School Corporation requires the disposition of property and goods no longer necessary for the maintenance of the educational program or the operation of the Corporation.

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

The Board shall direct the periodic review of all Corporation property and authorize the disposition by sale, donation, trade, or discard of any property not required for school purposes in accordance with the provisions of this policy and Policy 7310 - Disposition of Surplus Property. Furthermore, the sale or disposal of real property must comply with I.C. 36-1-11.

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.

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.

All property considered for disposition (sale) shall be subjected to two (2) current, outside, professional appraisals prior to the solicitation of offers.

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.

The authorized agents of the Board to review all purchase or lease offers pertaining to sale or lease of property shall be the Superintendent and the Board Finance Committee. The Board shall give final approval of all contracts.

In consideration of the best interest of the Corporation 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.

Potential purchasers or lessees shall demonstrate financial capability to meet the terms and conditions of their purchase or lease offer.

Potential purchasers shall demonstrate reasonable likelihood of obtaining necessary city/township approvals and/or compliance with city/township zoning ordinances.

Money derived from the sale or exchange of property that is no longer needed for school purposes shall be placed in any school fund established by law that the Board considers appropriate.

Lease or Sale of Property to Charter Schools and/or State Educational Institutions:

[NOTE: The following section does not apply to a school building that is on or before July 1, 2011, was leased or loaned by the Corporation to another entity if the entity is not a building corporation or other entity that is related in any way to, or created by, the Corporation or the Board.]

Except as specified below, before the Board may dispose of real property previously used for instruction, the Board shall make available for lease or purchase any school building owned by the Corporation or any other entity that is related in any way to, or created by, the Corporation or the Board, including but not limited to a building corporation, that is vacant and unused and previously was used for classroom instruction to any charter school in order for the charter school to conduct kindergarten through grade 12 classroom instruction or to a State educational institution to use for an academic purpose.

No later than ten (10) days after passing a resolution or taking other official action to close, no longer use, or no longer occupy a school building that previously was used for classroom instruction, the Board shall:

notify the State Department of Education (SDOE) of the official action and the effective date that the school building will be closed, no longer used, or no longer occupied;

make the school building available for inspection by a charter school or State educational institution that notifies the SDOE that it is interested in leasing or purchasing the school building; and

make the following information available to the interested school school(s) or State educational institution(s):

1. Estimates of the operating expenses for the school building for the past three (3) years.
2. Written information regarding the condition of the building, including the age of the roof and the HVAC system, and any known conditions which, in the Board's opinion, require prompt repair or replacement.
3. A legal description of the property

Throughout the process of the sale, lease, or disposal of Corporation school buildings, the Corporation is responsible for the maintenance of the vacant or unused school building until the building has been sold or leased to a charter school, state educational institution, an accredited nonpublic school or postsecondary educational institution or otherwise is eligible for sale or disposal pursuant to the provisions of this policy and state law. This maintenance includes protection against theft or vandalism; fire protection; and protection from damage during adverse weather conditions. The Corporation will maintain the physical condition of the vacant or unused school building as it was on the last day it was used for classroom instruction. The Corporation is financially responsible for any damage or destruction to the vacant or unused school building prior to the lease or purchase.

The Corporation shall lease the school building to a charter school or State educational institution for \$1 per year for as long as the charter school uses the school building for classroom instruction or the State educational institution uses the facility for an academic purpose for a term at the charter school/State educational institution's discretion, including the option to purchase the school building for \$1, or sell the school building for \$1, if the charter school/State educational institution does the following:

Within thirty (30) days of receiving notice from the SDOE, a charter school or State educational institution must submit a preliminary request to purchase or lease the school building.

Within ninety (90) days of receiving the SDOE's notice, a charter school or State educational institution must submit to the Corporation the following information:

The name of the charter school or State educational institution that is interested in leasing or purchasing the vacant or unused school building.

A time frame, which may not exceed two (2) years from the date that the school building is to be closed, no longer used, or no longer occupied, in which the charter school or State educational institution intends to begin providing classroom instruction in the vacant or unused school building.

A resolution, adopted by the board of the charter school or State educational institution stating that the board has determined that, after the charter school or State educational institution has made any necessary repairs or modifications, the school building will be sufficient to meet the charter school's or State educational institution's needs and can be operated within the charter school's budget.

If the vacant or unused school building is more than 200,000 gross square feet, then in addition to the information provided above, a charter school shall submit the following:

The charter school's projected enrollment when all of the grade levels are added.

A letter from the charter school's authorizer or prospective authorizer that indicates that the charter school's authorizer or prospective authorizer has reviewed the items described in subsections 2 and 3 and that the projected enrollment of the charter school when all of the grade levels are added or fully implemented will be at least sixty percent (60%) of the maximum annual student enrollment of the school building during the past twenty-five (25) years as validated by records maintained or created by the SDOE.

Not later than fifteen (15) days after the Board passes a resolution to sell, exchange, lease, demolish, hold without operation, or dispose of a school building to a charter school or state educational institution, the Board shall submit an application to the State Attorney General to obtain a certification that the Board is in compliance with the requirements of I.C. 20-26-7.1.

Upon receipt of the SDOE's notification that it has not received any preliminary requests to purchase or lease the school building, the Corporation may sell or otherwise dispose of the school building in accordance with I.C. 36-1-11, I.C. 20-25-4-14, I.C. 20-26-5-4(a)(7), and I.C. 20-26-7.1-8.

Provided, however, that not later than fifteen (15) days after the Board passes a resolution to sell, exchange, hold without operation, or dispose of a school building, the Board shall submit an application to the State Attorney General to obtain a certification that the Board is in compliance with the requirements of I.C. 20-26-7.1.

If a Corporation school building is sold to a charter school or State educational institution pursuant to this procedure, and the charter school or State educational institution, or any subsequent owner, subsequently sells or transfers the school building to a third party, the charter school or State educational institution or subsequent owner must transfer an amount equal to the gain in the property minus the adjusted basis (including costs of improvements to the school building) to the Corporation. Gain and adjusted basis shall be determined in the manner prescribed by the Internal Revenue Code and the applicable Internal Revenue Service regulations and guidelines.

A charter school or State educational institution that purchases a school building from the Corporation assumes total control of the school building and must maintain the school building, including utilities, insurance, maintenance, and repairs. In the event a charter school or State educational institution does not use the school building for classroom instruction within two (2) years after acquiring the school building, the school building shall revert to the Corporation, which may sell or otherwise dispose of the school building under I.C. 36-1-11.

During the term of a lease, the charter school or State educational institution is responsible for the direct expenses related to the school building leased, including utilities, insurance, maintenance, repairs, and remodeling. If the lease involves co-locating charter schools or State educational institution, the obligations under the lease of the school building shall be joint and several. The Corporation is responsible for any debt incurred for or liens that attached to the school building before the charter school or State educational institution leased the school building.

Exceptions:

The procedure described above does not apply to:

A school building that has been vacated to renovate the building for future use by the Corporation;

A school building that has been vacated to demolish the building and build a new school building on the same site;

An emergency manager of a distressed school corporation under I.C. 6-1.1-20.3.

A lease entered into by the Board under I.C. 20-26-5-4(a) (7) prior to January 1, 2019, with an accredited nonpublic school shall remain in full force and effect. The Board may, during or at the expiration of the term of such lease, sell the school building leased under I.C. 20-26-5-4(a)(7) to the nonpublic school at a purchase price mutually agreed to by the Board and the nonpublic school.

Sale of Building with 200,000 Gross Square Feet or Less:

This section applies to a school building with a gross square footage of 200,000 square feet or less.

If the Corporation receives notification from the SDOE that it has not received any preliminary requests to purchase or lease a vacant or unused school building with a gross square footage of 200,000 square feet or less or a charter school or State educational institution has not met the requirements for purchase or lease, the Corporation must sell the school building to an accredited nonpublic school or postsecondary educational institution that sends a letter of intent to the Corporation to purchase the vacant or unused school building for an amount not more than the minimum bid for the vacant or unused school building determined in accordance with I.C. 36-1-11, or an amount agreed to by both parties.

The accredited nonpublic school or postsecondary educational institution must submit its letter of intent to purchase the school building within thirty (30) days of the date the Corporation passes a resolution or takes other official action to close, no longer use, or no longer occupy a school building that previously was used for classroom instruction. However, in the event that a charter school or State educational institution has submitted a preliminary request to purchase or lease a school building, the accredited nonpublic school or postsecondary educational institution may send a letter of intent to purchase or lease the school building within ninety (90) days of the date that the Corporation passed a resolution or took official action to close, no longer use, or no longer occupy a school building.

Within forty-five (45) days of notice of the minimum bid, the accredited nonpublic school or postsecondary educational institution must provide a binding offer to the Corporation to purchase the property in its current condition and provide a nonrefundable down payment equal to five percent (5%) of the minimum bid or an amount agreed to by both parties. In the event that two (2) or more binding offers are submitted to the Corporation, the Corporation may select which offer to accept.

If the sale of the property does not close within 180 days of the Corporation's receipt of the binding offer, and the delay in closing is not caused by the Corporation or its representatives, the Corporation may refund the down payment and sell or otherwise dispose of the school building under I.C. 20-25-4-14, I.C. 20-26-5-4(7), or I.C. 36-1-11.

Sale of Building with More than 200,000 Gross Square Feet:

This section applies to the sale of a vacant or unused school building with more than 200,000 gross square feet under I.C. 36-1-11.

In determining whether to accept a proposal to purchase and redevelop the school building and any adjacent property, the Board must ensure that a charter school that is located within one (1) mile of the site to be redeveloped and has notified the Board in writing of its interest in locating the charter school on the redeveloped site is provided with the opportunity to lease adequate facilities on the redeveloped site at fifty percent (50%) or less than the current market rate for the redeveloped property or a rate agreed upon by the parties.

In the event that a charter school does not enter into a lease for the appropriate facilities as part of the initial development of the school building parcel, this section shall no longer be binding on the Corporation or the purchaser of the property, which shall not be required to make the space available for use by another charter school.

The Attorney General has broad authority to investigate complaints that a Corporation has not complied with the provisions established regarding the lease, sale, destruction or disposal of a school building.

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