



# **SCHOOL BOARD ACTION REPORT**

**DATE:** May 4, 2018  
**FROM:** Denise Juneau, Superintendent  
**LEAD STAFF:** Dr. Flip Herndon, Associate Superintendent, [ltherndon@seattleschools.org](mailto:ltherndon@seattleschools.org)

**For Introduction:** September 18, 2018  
**For Action:** October 3, 2018

## **1. TITLE**

Amending Policy No. 6882, Rental, Lease and Sale of Real Property, and Repealing Board Policy and Procedure H02.00 and H02.01, Closed Facilities

## **2. PURPOSE**

This board action makes one minor change in Policy No. 6882 for internal consistency.

## **3. RECOMMENDED MOTION**

I move that the School Board amend Board Policy No. 6882, Rental, Lease and Sale of Real Property, as attached to this board action report, and repeal Board Policy and Procedure H02.00 and H02.01, Closed Facilities.

## **4. BACKGROUND INFORMATION**

### **a. Background**

When Board Policy No. 6882, Rental, Lease and Sale of Real Property, was adopted in 2012, it took language directly from Board Policy and Procedure H02.00 and H02.01, Closed Facilities. It is unclear why the older H series policy and procedure were not repealed at that time. A review by staff found only a couple minor differences between the two, most of which were not substantive, and in the case of any conflicts, Policy No. 6882 provides for more authority for the Board. For this reason, Policy H02.00 and Procedure H02.01 can be repealed with no effect on practice.

In reviewing Policy No. 6882, staff noticed one internal inconsistency; in one portion of the policy it required Board approval of any leases for more than 5 years, while another section said 10 years. The one amendment to this policy fixes the inconsistency to change all references to 5 years. In any case, any lease with a value of more than \$250,000 must go before the Board for approval.

### **b. Alternatives**

Do not take action. This is not recommended as it would keep redundant policies and procedures in place, potentially confusing members of the public.

### **c. Research**

None

**5. FISCAL IMPACT/REVENUE SOURCE**

There is no fiscal impact to this action.

The revenue source for this motion is not applicable.

Expenditure:  One-time  Annual  Multi-Year  N/A

Revenue:  One-time  Annual  Multi-Year  N/A

**6. COMMUNITY ENGAGEMENT**

With guidance from the District’s Community Engagement tool, this action was determined to merit the following tier of community engagement:

Not applicable

Tier 1: Inform

Tier 2: Consult/Involve

Tier 3: Collaborate

Upon approval, the updated policy will be posted online for the public and staff to review.

**7. EQUITY ANALYSIS**

As this is a clerical action, this motion was not put through a full racial equity analysis.

**8. STUDENT BENEFIT**

Clear policies on the use of school district facilities help facilitate revenue for the district that can be used to benefit students.

**9. WHY BOARD ACTION IS NECESSARY**

Amount of contract initial value or contract amendment exceeds \$250,000 (Policy No. 6220)

Amount of grant exceeds \$250,000 in a single fiscal year (Policy No. 6114)

Adopting, amending, or repealing a Board policy

Formally accepting the completion of a public works project and closing out the contract

Legal requirement for the School Board to take action on this matter

Board Policy No. \_\_\_\_\_, [TITLE], provides the Board shall approve this item

Other: \_\_\_\_\_

**10. POLICY IMPLICATION**

Policy No. 6882 and H02.00 are implicated as discussed in the background section above.

**11. BOARD COMMITTEE RECOMMENDATION**

This motion was discussed at the Operations Committee meeting on August 22, 2018. The Committee reviewed the motion and recommended the motion move forward for approval by the School Board.

**12. TIMELINE FOR IMPLEMENTATION**

Upon approval, the updated policy will be posted online for the public and staff to review.

**13. ATTACHMENTS**

- Board Policy No. 6882, Rental, Lease and Sale of Real Property – clean (for approval)
- Board Policy No. 6882, Rental, Lease and Sale of Real Property – tracked changes (for reference)
- Board Policy H02.00, Closed Facilities (for repeal)
- Board Procedure H02.01, Closed Facilities (for repeal)

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|---|--|---|
|  | <b>RENTAL, LEASE AND<br/>SALE OF REAL<br/>PROPERTY</b> | <b>Policy No. 6882</b><br><br><b>DATE</b><br><br><b>Page 1 of 7</b> |
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Because of changes in enrollment, student assignment policies and other characteristics of the district from time-to-time, it may be necessary to add or to reduce, on a temporary or permanent basis, the number of schools and other facilities and properties operated by the district to support educational programs.

It is the policy of the School Board that facilities and properties owned by the district which are not currently needed for district purposes will be managed to carry out the following objectives:

- Reflect the district’s short, intermediate and long-term educational needs;
- Provide revenue and other financial support to district needs; and
- Support, to a limited extent, youth education activities.

These general objectives are described as follows:

- A. **Reflect Identified Short-Term, Intermediate-Term and Long-Term Educational Needs:** The Facilities Master Plan classifies each property not currently in use for educational purposes as either Inventoried or Non-essential (Surplus), as defined by the current Facilities Master Plan. Inventoried Properties are those that are not currently used, but are being kept for possible future use. Non-essential (Surplus) Properties are those that are not projected to be needed in the future and may be disposed of, through sale or long term lease.
  
- B. **Provide Revenue and Financial Support:** The district will seek to achieve maximum long term economic benefit from its real property assets. Facilities and properties currently not being used for district programs will be managed to provide funds to maintain, upgrade, and improve district facilities. At least every three (3) years, the district shall report to the Board on the management of inventoried and non-essential properties. The report shall include an assessment of the highest and best use of each site, the potential revenue to be realized, and recommend the steps to be taken and timing of activities to maximize long-term revenues to the district.

- C. Support, to a Limited Extent, Youth Education Activities: The district also recognizes the importance and value of supporting efforts to address the needs of children outside the formal K-12 educational process. Rent for Youth Education Centers may be adjusted to reflect the extent of benefit provided to youth education activities, and in particular to low income youth, as provided below.

### **Management of Inventoried Properties**

- A. Rental Procedures: Rental of closed buildings, other than to another public agency or renewal of existing leases, normally will be accomplished through rental of the entire building to a single master tenant. The normal process will be through a publicly advertised request for proposals process. Selection criteria, including price, term, permitted uses, etc., will be established in the request for proposals.

The neighborhood community surrounding the property shall be provided a time line and invited to comment in advance on the proposed disposition of the property and their views will be considered by the superintendent and the School Board in determining the appropriate disposition of the property. Current tenants will be given an opportunity to submit a proposal or a bid, if a request for proposal or competitive bid process is used. As part of any evaluation process, the district will consider the compatibility of the proposed use of the property with the neighborhood. Private schools shall have the right to submit proposals and have them considered in accordance with applicable state law, provided that they do not engage in unlawful discrimination of any kind.

In selected circumstances, the district may decide to lease to a selected prospective tenant or group, even if that tenant does not offer the highest financial return to the district. Such action will require School Board approval. Such action shall be taken only:

- (1) When the prospective tenant either:
  - (a) Would use the site exclusively or primarily (at least 50%) to provide services that directly support and substantially benefit Youth Education; or
  - (b) Is a governmental agency or nonprofit organization that provides community or social services in the community and neighborhood surrounding the school; and
- (2) Where no alternative nearby location exists where such

service can be provided.

Services that are deemed to support Youth Education include before and after school programs; preschool, day care and infant care; tutoring, reading, and other supplemental education classes; dance, art, and sports programs directed to children; and similar activities primarily directed to enhance and enrich childhood experiences.

Where more than one prospective tenant seeks to lease a site, priority will be given based on comparison of the degree and quality of Youth Education support provided, particularly to low income youth and to the immediate area surrounding the site.

The School Board reserves the right to decline to approve or disapprove any prospective tenant or group for direct negotiations, in its absolute discretion.

Whenever the School Board decides to lease a property for less than the highest financial return to the district, the School Board shall state by resolution the reasons for its decision, which shall take into account the difference between proposals in financial return compared to the value of the financial support offered for K-12 education.

- B. Rental Rates: Except with respect to Youth Education Centers as provided in III.D. below, all lease and rental rates shall reflect fair market value under current market conditions, taking into account zoning, lease term and other appropriate factors. Where negotiations are used in lieu of a request for proposals, the amount shall be at fair market rent and take into account the rental rate for similar buildings in Seattle and surrounding areas.

Leases shall usually be on a triple net basis, i.e., the district shall not be responsible for utilities, custodial expenses, maintenance, capital improvements or taxes, unless it is determined that such expenditures enhance the value of the property for future district use or other circumstances exist which justify a different form of lease.

Rental rates shall be adjusted periodically (usually at least every five years) to assure they reflect market conditions.

The Board recognizes that tenants at formerly vacant sites and at sites that are currently leased at below market rents may have difficulty paying the full market rent upon initial occupancy (or immediately after adoption of this procedure, for current tenants), and that requiring full market rent immediately may

adversely affect the district's ability to attract and keep tenants. A transition period is appropriate. Accordingly, the requirement for full market rent shall be modified in the first year of occupancy (and with respect to rent increases for current tenants) to not less than 75% of the current market value (including any inflation adjustments), in the second year to not less than 85%, in the third year to not less than 95% and in the fourth year and thereafter it shall be at least 100% of the then current market value.

- C. Lease Term: Leases and other property use agreements for facilities and properties currently not required for district programs shall be for terms consistent with the district's future need for the site, as identified in the district's Facilities Master Plan. All leases and other property use agreements shall allow early termination by the district if property is needed for district purposes, as determined by the district. Lease agreements of up to five years may be approved by the Superintendent without School Board action.
- D. Youth Education Centers in rented buildings: The district also recognizes the importance and value of supporting efforts to address the pre-school and before and after school educational needs of youth outside the formal K-12 educational process.

Properties may be leased to governmental or private non-profit groups at rates lower than the prevailing fair market rate, as follows: the rent shall be reduced up to 50% of the fair market value, based on the extent to which the building usage directly and substantially supports Youth Education activities, e.g., if 50 percent of the building is used for qualifying activities, rent will be reduced by 25 percent provided the qualifying activity receives the benefit of the reduction. Qualifying activities include: before and after school programs; preschool, child care, and infant care; tutoring, reading, and other supplemental education classes; dance, art, and sports programs directed to children; and similar activities primarily directed to enhance and enrich childhood experiences. Leases shall be reviewed at least every 2 years to assure compliance by lessees who receive reduced rent under this Board policy and the rent adjusted accordingly.

### **Management of Non-essential (Surplus) Properties**

- A. General: Surplus Properties will be managed to maximize long-term revenue to the district. Long-term leases and sales are preferred. Short-term leases should be utilized only where they would not interfere with long-term disposition of the property. When comparing whether to utilize a long-term lease or sale, the district

shall compare the proposed rental amount with the annual income that would be received from investment of sales proceeds.

- B. Sales and Long-Term Lease Procedures: Sale or long-term lease of property normally will be accomplished through a publicly advertised request for proposals process, unless approved by the Board. The statutory requirements for public notice, hearing and appraisals shall be followed. Selection criteria will be established in the request for proposals and shall be based on the highest long term financial return to the district. Consideration shall be given to whether part or all of a property should be sold.

As required by statute, an appraisal shall be obtained, notice given of the proposed sale pursuant to RCW 28A. 335.120, at least 45 days prior to any sale and a public hearing shall be held. The School Board hereby delegates to the Superintendent authority to conduct such hearings on behalf of the Board. The Superintendent may designate the Property Manager or another staff member to conduct such hearings and receive public comment and evidence offered for and against the propriety and advisability of the proposed sale. A transcript of the public comments shall be prepared, or minutes summarizing the comments prepared, and made available for School Board and public review prior to approval of a sale.

The neighborhood community surrounding the property shall be provided a time line and invited to comment in advance on the proposed disposition of the property and their views will be considered by the superintendent and the School Board in determining the appropriate disposition of the property. The current tenants will be given an opportunity to submit a proposal or a bid, if a request for proposal or competitive bid process is used. As part of any evaluation process, the district will consider the compatibility of the proposed use of the property with the neighborhood. Private schools shall have the right to submit proposals and have them considered in accordance with applicable state law, provided that they do not engage in unlawful discrimination of any kind.

In selected circumstances, the School Board may decide to sell to a selected prospective buyer or group, even if that buyer does not offer the highest financial return to the district. Sales under such circumstances are permitted to occur only:

- (1) When the prospective buyer either
  - (a) Would use the site exclusively or primarily (at least 50%) to provide services that directly

- support and substantially benefit Youth Education; or
- (b) Is a governmental agency or nonprofit organization that provides community or social services in the community and neighborhood surrounding the school; and
- (2) Where no alternative nearby location exists where such service can be provided.

Services that are deemed to support Youth Education include before and after school programs; preschool, child care and infant care; tutoring, reading, and other supplemental education classes; dance, art, and sports programs directed to children; and similar activities primarily directed to enhance and enrich childhood experiences.

Where more than one prospective purchaser seeks to buy or long term lease, consideration will be given to the degree and quality of K-12 education support provided, in particular to low income youth and to the immediate area surrounding the site, compared to the potential revenue to the district.

The School Board reserves the right to approve or disapprove any prospective purchaser or group for direct negotiations based on the proposer's support to K-12 education, in its absolute discretion.

Whenever the School Board decides to sell a property for less than the highest financial return to the district, the School Board shall state by resolution the reasons for its decision, which shall take into account the difference between proposals in financial return compared to the value of financial support offered for K-12 education.

- C. School Board Approval: Board approval shall be required for any sale, long term lease over 5 years (including tenant options) or lease for a total rent of \$250,000 for the term of the lease.
- D. Sales Proceeds: In the event of a sale or lease, the proceeds shall be directed to the Capital Eligible Fund, and set aside in a separate account within that fund, to be held for investment. The income from such investments will be used for purposes consistent with the purposes of the Capital Eligible Fund. The School Board may, by separate action, change this designation for specific properties.

Adopted: February 2012

Revised: DATE

Cross Reference:

Related Superintendent Procedure:

Previous Policies: H20.00

Legal References: RCW 28A.335.060 Surplus school property – Rental, Lease or use of – Disposition of Moneys Received From; RCW 28A.335.090 Conveyance and acquisition of property – Management – Appraisal; RCW 28A.335.120 Real property – Sale – Notice and hearing – Appraisal – Broker or real estate appraiser services – Real estate sales contracts – limitation;

Management Resources: *Policy News*, June 2001; February 2005; June 2011

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|  <p>SEATTLE<br/>PUBLIC<br/>SCHOOLS</p> | <p>RENTAL, LEASE AND<br/>SALE OF REAL<br/>PROPERTY</p> | <p>Policy No. 6882<br/><del>February 15, 2012</del>DATE<br/>Page 1 of 7</p> |
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Adopted: February 2012

Revised: DATE

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Related Superintendent Procedure:

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|  <p>SEATTLE<br/>PUBLIC<br/>SCHOOLS</p> | <p>CLOSED FACILITIES<br/>POLICY</p> | <p>Policy H02.00<br/>November 1997<br/>Page 1 of 1</p> |
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**POLICY**

It is the policy of the Seattle School Board that facilities and properties not currently in use for District purposes will be managed to carry out the following objectives:

1. Reflect the District's identified short term and long term educational needs.
2. Provide financial support to District facility needs.
3. Support, to a limited extent, youth, family, and adult education and activities.

Adopted: November 1997

Revised:

Cross Reference: H02.01

Related Superintendent Procedure:

Previous Policies: E01.00

Legal References:

Management Resources:

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|  | <p>PROCEDURE FOR<br/>SALES AND RENTALS<br/>OF CLOSED SCHOOL<br/>FACILITIES AND<br/>OTHER REAL<br/>PROPERTY</p> | <p>Procedure H02.01<br/><br/>March 26, 2008<br/><br/>Page 1 of 6</p> |
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## **BOARD-ADOPTED PROCEDURE**

### **I. Introduction**

Because of changes in the characteristics of the District from time to time, such as enrollment and student assignment patterns, it may be necessary to add or to reduce, on a temporary or permanent basis, the number of schools and other facilities and properties operated by the District to support the educational program.

This procedure sets forth the guidelines to be used by the Board and staff in managing properties not being used for District educational programs.

### **II. General Objectives**

The general objectives are:

- A. Reflect Identified Short-Term and Long-Term Educational Needs: The Facilities Master Plan classifies each closed property (i.e., not currently in use) for educational purposes as either Inventoried or Non-essential (surplus), as defined by the current Facilities Master Plan. Inventoried Properties are those that are not currently used, but are being kept for possible future use. Non-essential (Surplus) Properties are those that are not projected to be needed in the future and may be disposed of, through sale or long term lease.
- B. Provide Financial Support to District Facility Needs: The District will seek to achieve maximum economic benefit from its real property assets. Facilities and properties currently not being used for District programs will be managed to provide funds to maintain, upgrade, and improve District facilities. At least every three (3) years, the District shall conduct a study and prepare a plan for management of inventoried and non-essential properties. The study and plan shall include an assessment of the highest and best use of each site and the likely revenue to be realized and

recommend the steps to be taken and timing of activities to maximize long-term revenues to the District.

- C. Support, to a Limited Extent, Youth Education Activities: The District also recognizes the importance and value of supporting efforts to address the needs of children outside the formal K-12 educational process. Rent for Youth Education Centers may be adjusted to reflect the extent of benefit provided to youth education activities, and in particular to low income youth, as provided in III.D. below.

### **III. Management of Inventoried Properties**

- A. Rental Procedures: Rental of closed buildings, other than to another public agency or renewal of existing leases, will be accomplished through rental of the entire building to a single master tenant, through a publicly advertised request for proposals process, unless approved otherwise by the School Board under the conditions as stated in the paragraph below. Selection criteria, including price, term, permitted uses, etc., will be established in the request for proposals.

The neighborhood community surrounding the property shall be provided a time line and invited to comment in advance on the proposed disposition of the property and their views will be considered by the superintendent and the School Board in determining the appropriate disposition of the property. Current tenants will be given an opportunity to submit a proposal or a bid, if a request for proposal or competitive bid process is used. As part of any evaluation process, the District will consider the compatibility of the proposed use of the property with the neighborhood. Private schools shall have the right to submit proposals and have them considered in accordance with applicable state law, provided that they do not engage in unlawful discrimination of any kind.

In selected circumstances, the District may decide to negotiate directly with a selected prospective tenant or group without issuing a request for proposals. Such action will require School Board approval. Such action shall be taken only

- (1) when the prospective tenant either
  - (a) would use the site exclusively or primarily (at least 50%) to provide services that directly support and substantially benefit Youth Education or
  - (b) is a governmental agency or nonprofit organization that provides community or social services in the community and neighborhood surrounding the school and

(2) where no alternative nearby location exists where such service can be provided.

Services that are deemed to support Youth Education include before and after school programs; preschool, day care and infant care; tutoring, reading, and other supplemental education classes; dance, art, and sports programs directed to children; and similar activities primarily directed to enhance and enrich childhood experiences.

Where more than one prospective tenant seeks to lease a site, priority will be given based on comparison of the degree and quality of Youth Education support provided, particularly to low income youth and to the immediate area surrounding the site.

The School Board reserves the right to decline to approve or disapprove any prospective tenant or group for direct negotiations, in its absolute discretion.

- B. **Rental Rates:** Except with respect to Youth Education Centers as provided in III.D. below, all lease and rental rates shall reflect fair market value under current market conditions, taking into account zoning, lease term and other appropriate factors. Where negotiations are used in lieu of a request for proposals, the amount shall be at fair market rent and take into account the rental rate for similar buildings in Seattle and surrounding districts.

Leases shall usually be on a triple net basis, i.e., the District shall not be responsible for utilities, custodial expenses, maintenance, capital improvements or taxes, unless it is determined that such expenditures enhance the value of the property for future District use or other circumstances exist which justify a different form of lease.

Rental rates shall be adjusted periodically (usually at least every five years) to assure they reflect market conditions.

The Board recognizes that tenants at formerly vacant sites and at sites that are currently leased at below market rents may have difficulty paying the full market rent upon initial occupancy (or immediately after adoption of this procedure, for current tenants), and that requiring full market rent immediately may adversely affect the District's ability to attract and keep tenants. A transition period is appropriate. Accordingly, the requirement for full market rent shall be modified in the first year of occupancy (and with respect to rent increases for current tenants) to not less than

75% of the current market value (including any inflation adjustments), in the second year to not less than 85%, in the third year to not less than 95% and in the fourth year and thereafter it shall be at least 100% of the then current market value.

- C. Lease Term: Leases and other property use agreements for facilities and properties currently not required for District programs shall be for terms consistent with the District's future need for the site, as identified in the District's Facilities Master Plan. All leases and other property use agreements shall allow early termination by the District if property is needed for District purposes, as determined by the District. Lease agreements of up to ten years may be approved by the Superintendent without School Board action .
- D. Youth Education Centers in rented buildings: The District also recognizes the importance and value of supporting efforts to address the pre-school and before and after school educational needs of youth outside the formal K-12 educational process.

Properties may be leased to governmental or private non-profit groups at rates lower than the prevailing fair market rate, as follows: the rent shall be reduced up to 50% of the fair market value, based on the extent to which the building usage directly and substantially supports Youth Education activities, e.g., if 50 percent of the building is used for qualifying activities, rent will be reduced by 25 percent provided the qualifying activity receives the benefit of the reduction. Qualifying activities include: before and after school programs; preschool, child care, and infant care; tutoring, reading, and other supplemental education classes; dance, art, and sports programs directed to children; and similar activities primarily directed to enhance and enrich childhood experiences. Leases shall be reviewed at least every 2 years to assure compliance by lessees who receive reduced rent under this Board procedure and the rent adjusted accordingly.

The District has previously entered into leases for seven sites designated as Youth and Family Centers, which qualify them for reduced rent. All existing leases and programs at the covered properties will be reviewed and revised as necessary to assure compliance with this Board Procedure within one year after adoption of this Procedure.

#### **IV. Disposition of Non-essential (Surplus) Properties**

- A. General: Surplus Properties will be managed to maximize long-term revenue to the District. Long-term leases and sales are preferred. Short-term leases should be utilized only where they would not

interfere with long-term disposition of the property. When comparing whether to utilize a long-term lease or sale, the District shall compare the proposed rental amount with the annual income that would be received from investment of sales proceeds.

- B. Sales and Long-Term Lease Procedures: Sale or long-term lease of closed buildings will be accomplished through a publicly advertised request for proposals process, unless approved by the Board. Selection criteria will be established in the request for proposals and shall be based on the highest long term financial return to the District. Consideration shall be given to whether part or all of a property should be sold.

As required by statute, an appraisal shall be obtained and a public hearing shall be held at least 45 days prior to any sale.

The neighborhood community surrounding the property shall be provided a time line and invited to comment in advance on the proposed disposition of the property and their views will be considered by the superintendent and the School Board in determining the appropriate disposition of the property. The current tenants will be given an opportunity to submit a proposal or a bid, if a request for proposal or competitive bid process is used. As part of any evaluation process, the District will consider the compatibility of the proposed use of the property with the neighborhood. Private schools shall have the right to submit proposals and have them considered in accordance with applicable state law, provided that they do not engage in unlawful discrimination of any kind.

In selected circumstances, the District may decide to negotiate directly with a selected prospective tenant or group. Such action will require School Board approval. Such action shall be taken only

(1) when the prospective buyer either

(a) would use the site exclusively or primarily (at least 50%) to provide services that directly support and substantially benefit Youth Education or

(b) is a governmental agency or nonprofit organization that provides community or social services in the community and neighborhood surrounding the school and

(2) where no alternative nearby location exists where such service can be provided.

Services that are deemed to support Youth Education include before and after school programs; preschool, child care and infant

care; tutoring, reading, and other supplemental education classes; dance, art, and sports programs directed to children; and similar activities primarily directed to enhance and enrich childhood experiences.

Where more than one prospective purchaser seeks to buy or long term lease, priority will be given based on comparison of the degree and quality of K-12 education support provided, in particular to low income youth and to the immediate area surrounding the site.

The School Board reserves the right to approve or disapprove any prospective purchaser or group for direct negotiations, in its absolute discretion.

- C. Sales Amounts and Rental Rates: Sales or long term lease rental amounts will be based upon either competitive proposals or negotiated amounts, and shall comply with statutory requirements for appraisals. Any sale or long term lease over 10 years (including tenant options) shall require Board approval.
  
- D. Sales Proceeds: In the event of a sale or lease, the proceeds shall be directed to the Capital Eligible Fund, and set aside in a separate account within that fund, to be held for investment. The income from such investments will be used for purposes consistent with the purposes of the Capital Eligible Fund. The School Board may, by separate action, change this designation for specific properties.

Adopted: March 2008

Revised: November 1997; June 2004; December 2005; March 2008

Cross Reference: H02.00

Related Superintendent Procedure:

Previous Policies: E01.01

Legal References:

Management Resources: