

KENTUCKY DEPARTMENT OF EDUCATION STAFF NOTE

Topic: Amendment of 702 KAR 4:090, Property Disposal (Second Reading)

Date: August 2020

Action Requested: ☐ Review ☒ Action/Consent ☐ Action/Discussion

Held In: ☒ Full Board ☐ Curriculum, Instruction and Assessment ☐ Operations

SUMMARY OF ISSUE BEFORE THE BOARD:

To review the proposed regulation amendment of 702 KAR 4:090, Property disposal.

COMMISSIONER'S RECOMMENDATION:

The Commissioner recommends that the Kentucky Board of Education (KBE) approve 702 KAR 4:090, Property disposal. Approval of the regulation is necessary to provide school districts with a clear process for the disposal of surplus real property.

APPLICABLE STATUTE OR REGULATION:

KRS 156.160

BACKGROUND:

Existing Policy:

KRS 156.160 requires the Kentucky Board of Education (KBE) to promulgate administrative regulations dealing with the disposal of real and personal property owned by local boards of education. The proposed regulation applies to the disposal of real property through sale, lease or easement.

Summary of Issue:

The proposed amendment to 702 KAR 4:090 clarifies the process a school district must follow to dispose of real property through sale, lease or easement. The existing regulation does not contain a complete explanation of the legal requirements for the disposition of real property. Heretofore, those requirements were communicated to school districts exploring the surplus of property through Division of District Support Facilities Branch staff. The proposed regulation amendment will provide districts with a clear pathway and understanding of the process and requirements to dispose of property without reliance on program area staff for explanation. By law, a school district cannot dispose of real property for less than fair market value.

The proposed amendment requires districts seeking to dispose of property surplus to the educational needs of the district to obtain conditional approval from the Commissioner of Education. Upon conditional approval, a district may begin the disposal process through public auction, sealed bids or by setting a minimum acceptable price. Disposal is conditioned on the district obtaining fair market value as ascertained by a certified general real property appraiser.

At the conclusion of the sale process, the district submits to the Kentucky Department of Education (KDE) the final proposed agreement along with documentation of appraisal and advertisement. Upon approval from the department, the district may execute the final sale agreement with the purchaser. The proposed amendment provides similar processes for disposition by lease or easement.

Budget Impact:

There is no budgetary impact to the KDE.

GROUPS CONSULTED AND BRIEF SUMMARY OF RESPONSES:

Program area staff work daily with local school district staff, facilities directors, architects and local board attorneys to resolve issues related to property disposition. Through these interactions, it became clear that the existing regulation does not provide enough detail or clarity surrounding the requirements under law for the disposition of school district property. The regulation was heard by the Local Superintendents Advisory Council (LSAC) at its May 26, 2020 meeting with no major issues identified. The proposed regulation will receive a second reading by the LSAC at its July 28, 2020 meeting. A letter from this group, expressing its recommendation, should be received prior to the August board meeting.

CONTACT PERSON(S):

Robin Fields Kinney, Associate Commissioner
Office of Finance and Operations
Robin.Kinney@education.ky.gov
(502) 564-1976



Interim Commissioner of Education

Category:	<input type="checkbox"/> District Innovation	<input type="checkbox"/> Strengthening Educators	<input type="checkbox"/> Family/Community Involvement
	<input type="checkbox"/> Student/Family Supports	<input type="checkbox"/> Student Interventions	<input type="checkbox"/> Coursework Completion <input checked="" type="checkbox"/> Accountability Reporting