

## KENTUCKY DEPARTMENT OF EDUCATION STAFF NOTE

**Topic:** Johnson County School District Request for Approval of a Site Acquisition Exceeding Ten Percent of the Maximum Project Budget per 702 KAR 4:050

**Date:** June 2021

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

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

### SUMMARY OF ISSUE BEFORE THE BOARD:

To approve, pursuant to 702 KAR 4:050, the proposed site acquisition by the Johnson County School District for the new Johnson Central High School (DFP Priorities 1b.1 and 2b.1), a new maintenance facility (DFP Priority 4.2) and a new bus garage (Priority 4.3) for which the acquisition and site development costs exceed ten percent (10%) of the maximum project budget.

### COMMISSIONER'S RECOMMENDATION:

The Commissioner recommends that the Kentucky Board of Education (KBE) approve the proposed acquisition of the site for the new Johnson Central High School, maintenance facility and bus garage in the Johnson County School District for which the acquisition cost and the estimated cost of the related site improvements exceed the threshold established by regulation.

### APPLICABLE STATUTE OR REGULATION:

KRS 177.057 Required consultation on highway access prior to purchase of property for school facility; 702 KAR 4:050 Building Sites; inspection, approval;

### BACKGROUND:

#### *Existing Policy:*

**KRS 177.057** requires that a proposed school site be supported by adequate roadways. The statute states "A local school district shall not purchase property for the construction of any school facility until the district consults with the Kentucky Transportation Cabinet, Department of Highways, Frankfort Office, to determine if the property to be purchased currently has adequate highway access or if highway access is planned for a future date by the Transportation Cabinet. If the property to be purchased does not currently have adequate highway access or if the Transportation Cabinet does not plan future highway access to the property, the cabinet shall so notify the local school district in writing."

**702 KAR 4:050 Section 2** requires the department to conduct a site inspection. The regulation states "The chief state school officer shall cause an inspection to be made of each proposed school building site or proposed real property acquisition including site addition upon written request of the local board of education."

**702 KAR 4:050 Section 4 (4)(d)** requires consultation regarding road adequacy with the appropriate agency. The regulation states "Letter from local government or state highway office confirming road adequacy shall be provided. The public road network servicing a site shall be

adequate both in width and capacity to accommodate the projected bus and vehicular traffic for the proposed facility in addition to normal traffic while providing a safe and efficient access. This shall require consultation with either the local government road department or the Kentucky District Highway Office if access is by state highway.”

**702 KAR 4:050 Section 4** requires a two-step approval process. The regulation states “Prior to contracting for the purchase of a school site, site expansion, or other real property, the local board of education shall follow the site selection process established in this section. The site selection process is a two (2) step approval process. A tentative approval allows the local district to pursue a site for further assurances and documentation which may lead to the approval to acquire the property.”

**702 KAR 4:050 Section 4(4)(f)** requires that a district provide the estimated costs required to develop a proposed site for its intended purpose. The regulation requires “Site survey of site development costs by architects or engineers and projected acquisition cost for the proposed site shall be provided. A cost analysis site survey, as requested by the Division of Facilities Management (*now District Facilities Branch*), shall include but not be limited to: mass site excavation, cost of bringing utilities to site and infrastructures, on-site roadway access (less paving), geotechnical survey (drilling a minimum of four (4) holes for subsurface conditions) with associated above normal footing requirements, any costs for hazardous condition cleanup, and acquisition cost. The site survey shall provide alternative locations or elevations of building as requested by the Kentucky Department of Education on the proposed site.”

**702 KAR 4:050 Section 5(1)** requires that a district receive KBE approval when acquisition and site preparation costs exceed ten (10) percent of the total project budget. The regulation states “Acquisition and site preparation costs of the local school board shall be ten (10) percent or less of the maximum budget for the project, unless authorized by the State Board for Elementary and Secondary Education.”

**702 KAR 4:050 Section 5(3)** requires that a district investigate multiple sites. The regulation states “The local board of education shall certify to the chief state school officer that all reasonable sites within the approvable area have been reviewed and a decision has been made by the local board not to pursue acquisition of those sites. This certification shall list the sites reviewed and include reasons site was not acceptable.”

#### *Summary of the Issues:*

The Johnson County School District desires to acquire property to build new facilities to replace existing facilities which include an 825-student high school (grades 10-12), a maintenance facility and a bus garage. The site acquisition cost plus the estimated site development costs of these facilities exceed the ten percent (10%) threshold established by the regulation.

The issues are broadly summarized as follow:

#### **Site Considerations**

Johnson County is in the Eastern Kentucky Coal Fields. Few sites are available and suitable for the development of school facilities. The subject site is approximately 291 acres. Coal has been extracted from a portion of the site by the mining technique frequently called mountain top removal. The site consists of a combination of benches from which the coal was removed, fill areas for overburden and undisturbed areas with steep slopes. The analysis provided by the district’s consultants indicates that the steeply sloped areas comprise approximately 70% of the total acreage and are not suitable for building development which significantly reduces the

usable area. The site's elevation, topography and adjacent development create limited options for site access. A satellite photograph (Exhibit A) and the site survey Exhibit B) are attached.

The district reported that five (5) potential sites were evaluated within the desired area for the new high school. Based on this evaluation, the district determined that this site presented for KBE consideration represents the best overall option. Supporting documentation is attached (Exhibit C).

### **Site Access**

KDE staff routinely coordinates site inspections with representatives of the Kentucky Transportation Cabinet (KYTC). The initial site inspection was conducted on April 4, 2017 with representatives of the district, its architect, KYTC and the department. KYTC determined that the proposed access to the site from McCloud Street was not adequate due to the need for a right turn lane from Old US 23/KY321 and its impact on a nearby bridge. KDE did not provide tentative approval based on KYTC's determination.

A second meeting was held with the district, its architect, civil engineering consultant and representatives of KYTC and KDE. At that time other site access options were discussed. The district then commissioned a traffic study and provided it to KYTC. KDE's tentative approval was granted after KYTC provided a letter of roadway adequacy and a funding commitment for improvements in the right of way at an alternative access location at Highlands Elementary School on September 25, 2020 (Exhibit D). This access location necessitates a lengthy roadway to accommodate the elevation change and provide an acceptable slope. Its construction requires extensive cut and fill and two bridges at a total projected cost of \$3,638,593. The plan for the access road is attached (Exhibit E).

### **Acquisition and Site Development Costs as a Percentage of the Total Project Budget**

The acquisition cost plus the estimated cost of site improvements compared to estimated project cost of the high school exceeds 10%. The regulation does not contemplate the additional costs that could be associated with site development in mountainous areas and require extensive mass earth work in the form of cut and/or fill to create level building sites, a common issue in eastern Kentucky. The primary uses of the site is for a new high school, a new maintenance facility and a bus garage are also to be located on the property. The general location of the proposed new high school is illustrated by Exhibit F.

Site Acquisition Cost (Priority 1b.1):	\$1,900,000.00
<u>Estimated Site Development Costs:</u>	<u>\$13,510,285.00</u>
Total Site Acquisition & Site Development Costs:	\$15,410,285.00
Estimated High School Project Costs (Priority 2b.1):	\$30,665,077.00
Estimated Maintenance Facility Project Costs (Priority 4.1):	\$848,446.00
<u>Estimated Bus Garage Project Costs (Priority 4.2):</u>	<u>\$1,128,480.00</u>
Total Project Costs:	\$32,642,003.00

Site Acquisition & Site Development Costs / Total Projects Cost = 47%

The cost associated with the construction of the roadway represents 11% of the estimated site development costs. Removing this cost reduces the percentage to 36%.

**Budget Impact:** Approval has no budget impact on state funds.

## GROUPS CONSULTED AND BRIEF SUMMARY OF RESPONSES:

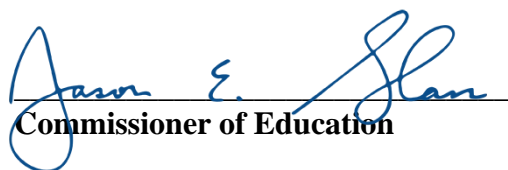
702 KAR 4:050 requires that the district consult with various entities to address the requirements regarding the proposed site acquisition and its proposed use. The district consulted with the following entities:

1. Sherman Carter Barnhart Architects provided District Facility Planning efforts and estimated building costs.
2. Bocook Engineers provided the site survey, Phase I Environmental Site Assessment and estimated site development costs.
3. CMTA, Consulting Engineers, provided estimated site utility costs.
4. Geotechnology, Inc. provided geotechnical studies and recommendations.
5. Palmer Engineering performed traffic studies in 2017 and 2020.
6. The Kentucky Transportation Cabinet regarding roadway adequacy and funding for improvements in the public right-of-way needed to provide access to the site. Approval letter was dated September 25, 2020.
7. Ross Sinclair Associates, Inc., the district's fiscal agent, provided funding projections.

After evaluating the information provided by these entities, the district determined that this site meets its need for a new high school, a new maintenance facility and new bus garage and has requested that the Kentucky Board of Education approve the site pursuant to 702 KAR 4:050 in order for final approval to be granted.

## CONTACT PERSON(S):

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Commissioner of Education

Category:	<input type="checkbox"/> Educator Workforce Diversity	<input type="checkbox"/> Portrait of a Graduate Partnerships	<input type="checkbox"/> Racial Equity Commitment
	<input type="checkbox"/> Student-Centered Accountability System	<input type="checkbox"/> Early Childhood	<input checked="" type="checkbox"/> District Support