

KENTUCKY DEPARTMENT OF EDUCATION STAFF NOTE

Topic: Barren County School District Request for Waiver of 702 KAR 4:090

Date: February 2024

Action Requested: Review Action/Consent Action/Discussion

Held In: Full Board State Schools United We Learn

SUMMARY OF ISSUE BEFORE THE BOARD:

Pursuant to KRS 156.160(2), the Barren County Board of Education requests waiver of Section 1(3) of 702 KAR 4:090 Property disposal which requires the district to receive fair market value for the disposal of surplus property by “setting an acceptable price, the minimum acceptable price shall be determined by an appraisal from a certified general real property appraiser commissioned by the school district and obtained in connection with the disposal of the property.”

COMMISSIONER’S RECOMMENDATION:

The Commissioner recommends that the Kentucky Board of Education (KBE) approve the district’s request to waive the aforementioned regulatory requirement that surplus property may only be sold at a price determined by an appraisal from a certified general real property appraiser commissioned by the district. Approving the request will allow the district to avoid expending funds for an appraisal and thereby maximize the net amount received associated with a relatively small transaction.

APPLICABLE STATUTE OR REGULATION:

KRS 156.160 Promulgation of administrative regulation by Kentucky Board of Education – Voluntary compliance – Penalty. KRS 156.160(2) states:

(a) At the request of a local board of education or a school council, a local school district superintendent shall request that the Kentucky Board of Education waive any administrative regulation promulgated by that board. Beginning in the 1996-97 school year, a request for waiver of any administrative regulation shall be submitted to the Kentucky Board of Education in writing with appropriate justification for the waiver. The Kentucky Board of Education may approve the request when the school district or school has demonstrated circumstances that may include but are not limited to the following:

1. An alternative approach will achieve the same result required by the administrative regulation;
2. Implementation of the administrative regulation will cause a hardship on the school district or school or jeopardize the continuation or development of programs; or
3. There is a finding of good cause for the waiver.

(b) The following shall not be subject to waiver:

1. Administrative regulations relating to health and safety;
2. Administrative regulations relating to civil rights;
3. Administrative regulations required by federal law; and
4. Administrative regulations promulgated in accordance with KRS 158.6451, 158.6453, 158.6455, and this section, relating to measurement of performance outcomes and

determination of successful districts or schools, except upon issues relating to the grade configuration of schools.

702 KAR 4:090 Property disposal

“Section 1(3). Disposition by Easement. For property disposal by setting a minimum acceptable price, the minimum acceptable price shall be the fair market value, which shall be determined by an appraisal from a certified general real property appraiser commissioned by the school district and obtained in connection with the disposal of the property.”

BACKGROUND:

Existing Policy:

702 KAR 4:090 Section 1(3) requires documentation regarding receipt of fair market value as determined by an appraisal from a certified general real property appraisal commissioned by the school district and obtained in connection with the disposal of the property or equivalent valuable consideration.

Summary of Issue:

The district requests a waiver of the regulation which requires an appraisal to be commissioned by the district for the sale of property (19,454 square feet) to the Kentucky Transportation Cabinet for KY 90 Happy Valley Road Widening and Overlay Project and desires to accept a valuation under KYTC's Minor Acquisition Review (MAR) in the amount of \$12,000 which includes the sale of the land for \$4,000 and \$8,000 for the replacement of farm fencing. The MAR provides the district with the option of having KYTC obtain an appraisal and to waive that option. The district wishes to use the appraisal commissioned by KYTC. Approving the request will allow the district to avoid expending funds for an appraisal and maximize the net amount associated with a relatively small transaction.

Budget Impact:

There is no impact on KDE's budget.

GROUPS CONSULTED AND BRIEF SUMMARY OF RESPONSES:

Kentucky Transportation Cabinet, Department of Highways, Division of Right of Way and Utilities for the proposed Memorandum of Understanding.

CONTACT PERSON(S):

Matthew T. Ross, Associate Commissioner
Office of Finance and Operations
Email: matt.ross@education.ky.gov
(502) 564-1976 Ext. 4321

Robin Fields Kinney
Commissioner of Education

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| 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 |
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