

Summary for 702 KAR 4:090. Property Disposal.

The following summarizes the important adjustments proposed for the regulation.

1. The “Relates To” section of the regulation increases from one (1) reference to seven (7). The Kentucky Statutes (KRS) and Code of Federal Regulation (CFR) referencing under “Relates To” adds KRS Chapters 45A.425, 160.160 (8), 162.010, 424.170; 2 CFR 200.310, 200.311. It is important to update the referencing of applicable laws for districts to better understand the impact the regulation has for the purpose of compliance. This provides for better coordination of requirements expected when districts are working to comply with the disposal of real property.
 - (1) With the increased volume of federal fund use on notable renovations, new schools and other enhancements to real property, it is important to note the reporting requirements from CFR’s if a district decides to dispose of a property that federal government is vested in.
2. The Necessity, Function, and Conformity section only removes the language of “and personal” to simply clarify this regulation is only for the disposal of real property. Disposal of personal property is currently not addressed in the regulation and is addressed in statute (primarily KRS 45A.425).
3. Section One (1). A definitions section is added for important terms used in this regulation.
4. Section Two (2). Processing compliance language is provided where BG forms are used for contingent, final, and closeout approvals within standard KDE systems for construction and property. The goal is to eliminate email and letter writing outside the established systems in place at KDE through the Facilities, Planning and Construction system (FACPAC). Letter writing approvals may be reduced to waiver approvals as outlined later in this proposed regulation.
5. Sections three (3) through six (6) describe the disposal process for each type of disposal. The sections include Section 3, Disposition by Sale which includes auction, bid or minimum acceptable price; Section 4, Disposition by Sale to a Governmental or Quasi-Governmental Agency; Section 5, Disposition by Easement; and Section 6, Disposition by Lease (District as Lessor/Landlord).
 - (1) Section 4 is new in response to the 2024 General Assembly’s adoption of KRS 160.160 (8) coming into effect this year to provide guidance for record keeping and data collection where KDE is required to keep records of transactions related to real property through copies of deeds and deeds of conveyance.
6. Section seven (7) is new allowing districts to request waivers to requirements and submittals through the Commissioner of Education or the Commissioner of Education’s designee.
7. Section eight (8) is new allowing for an appeal process to KBE should the district not be granted a waiver from KDE as outlined in Section 7.
8. Section nine (9) is a conflict-of-interest statement which does not change from the original regulation.
9. Section ten (10) Incorporations by reference note the use of BG-1 and BG-5 forms as provided in the FACPAC system and referenced as documents in this regulation.