

DISPOSAL OF DISTRICT PROPERTY

The Board of Education is authorized to sell or otherwise dispose of all obsolete, surplus and scrap materials, equipment and other property of the school district. Whenever feasible, the District is mindful of sustainability and will make every reasonable attempt to engage in good environmental stewardship.

The proceeds from the sale of unneeded, obsolete or scrap property or materials can be a significant revenue source for the school district. The purchasing agent shall be responsible for property disposal and that the same precautions taken for the purchasing function shall be observed in the sale of unneeded district property. Items deemed by administration to have no residual value may be disposed of via waste stream.

The purchasing agent shall ensure that property is not disposed of unless it has been determined that it is unneeded for present or future use, or its period of usefulness has expired; e.g., a mileage standard for district vehicles or a period of use standard for equipment such as a typewriter. To this end, there should be a procedure for periodically canvassing each school or department to identify unneeded or obsolete materials, equipment or supplies. The value of all such property should be estimated and a means of disposal determined. Some items which are beyond utility may simply be disposed of. Items deemed to have a residual value will be presented to the Board of Education for approval of a recommended disposal plan.

Sale is not always the most appropriate means of disposal. For example, surplus equipment or supplies in one building may be transferred to another building or department where needed. Items can also be effectively disposed of by using them as trade-ins on new equipment. Excess new or unused materials may be returnable to a vendor for credit. Reconditioning or reuse should also be considered. If these methods are exhausted, sale of the property is appropriate.

No statute prescribes the method of disposal of property owned by a school district. Nor is there a statutory mandate that property be sold at a public auction. As a general rule the Board must receive fair and reasonable consideration for such property, although the actual amount is within the Board's discretion. The Court of Appeals and the Commissioner of Education have characterized the Board's duty in respect to such sales as a fiduciary responsibility to secure, in its judgment, the best price obtainable or the most beneficial terms to the public interest.

Selling for a nominal or inadequate sum could result in a prohibited gift of public funds and might be considered an act of waste. Thus, while sale pursuant to a private negotiation is possible, it is not advisable. Competition usually results in the best price and an open market price is considered a good indicator of a bona fide effort to obtain the highest consideration and maximum benefit to the district.

Sales of surplus equipment to a Board member or other school officials who have authority to negotiate, prepare, authorize or approve a contract or audit bills and claims under a contract, or appoint persons with such authority are generally prohibited by the conflict of interest provisions of the General Municipal Law. Private or direct sale of surplus or obsolete property to other district employees, although not unlawful, is not advisable since it might open the Board to charges of impropriety and acts of waste. It is recommended that the particular facts of such a transaction be reviewed by the school attorney for any potential conflict of interest.

If it is determined that particular items will not produce sufficient revenue to meet the expenses of a sale, disposition of the property by dumping or destruction is permissible. In addition, the Board should consider whether sale or disposal of an item will expose the school district to potential liability as the result of misuse by a subsequent owner or an unsafe condition of which the district should have been aware.

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