

PROPERTY DISPOSITION PROCEDURE

RATIONALE:

The Hamilton-Wentworth District School Board (HWDSB) is dedicated to offering equitable and sustainable learning environments for students. In alignment with the Long-Term Facilities Plan, the Board carefully evaluates the use of its facilities and properties through various partnerships and community accommodation strategies.

Following these considerations, the Board recognizes that under section 194 of the Education Act (the “Act”), if the Board declares that a property is not required for the purposes of the Board and adopts a resolution as such, the Board, may sell, lease, or otherwise dispose of a school site, part of a school site or other property of the Board through the discretionary disposition process, as governed by [Ontario Regulation 374/23: Acquisition and Disposition of Real Property](#).

The purpose of the Property Disposition Procedure is to ensure that when HWDSB is disposing, leasing or granting easements of an entrusted property asset that Trustee fiduciary responsibility and effective public sector governance is clearly demonstrated, HWDSB is in full compliance with all Legislative and Regulatory requirements and directions and decisions are clearly articulated in a timely fashion to the Community at large.

TERMINOLOGY:

Bona Fide Offer: A bona fide offer is one that is presented in a legal format and will become binding upon the Board's endorsement. A letter of understanding or intent to purchase, a Board or Council motion or any other form of expressed interest to purchase does not satisfy the legislative requirement and must be rejected. HWDSB may endorse or prescribe a form of offer or agreement for its divestitures.

Discretionary Disposition: As per O. Reg. 374/23, HWDSB may sell, lease, or otherwise dispose of a school site, part of a school site or other property of HWDSB, with the Minister's approval for the disposition, if HWDSB adopts a resolution that the property is not required for the purpose of the Board, or that the disposition is a reasonable step in a plan to provide accommodation for pupils.

Disposition of Property: (for this purpose relates to)

- An entire school and property;
- An Administrative property;
- Excess land on a piece of school property (on which a school will continue to operate);
- Vacant land;
- Exchange of Lands;
- The lease of an entire school site or a lease of part of a school site (including the building).

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Easement: Right-of-way, right or license to cross or otherwise use HWDSB lands for a specified purpose but does not include such an easement arising by operation of law.

Fair Market Value: The most probable price in terms of money which an estate (or interest) in real property should bring in a competitive and open market under conditions requisite to a fair and typical sale between a willing seller and willing buyer, each acting prudently and knowledgeably, being the highest and best use for the property or interest in question. A site appraisal must be completed by an Appraisal Institute of Canada-accredited third-party appraiser.

Mandatory Disposition: If HWDSB has identified, through the reports and information required under section 193.1 of the Act, that a school site or other property of HWDSB is not currently being used and the site or property is not needed to meet HWDSB's current pupil accommodation needs or its pupil accommodation needs for the next 10 years, the Minister may direct HWDSB to sell the property. Minister direction does not require a Board resolution to proceed with disposition; the Board is informed of the decision.

Ministry Intake Form: A ministry form completed online by HWDSB staff to notify the Ministry of Education of any properties for discretionary and mandatory disposition. The Ministry of Education is responsible for scheduling and communicating with school boards to request completion of the intake form throughout the school year.

PROCEDURES:

The Mandatory and Discretionary disposition processes, including the granting of easements, as outlined in the Regulation will be followed.

1.0 Ministry of Education Standard Disposition Process Intake

- 1.1 When requested, the Board shall provide to the Minister information and reports respecting school sites, parts of school sites and property of HWDSB, including information relating to:
 - 1.1.1 The Condition of school sites, parts of school sites and properties of HWDSB;
and
 - 1.1.2 HWDSB's plans for the acquisition, sale, lease or other disposition of school sites, parts of school sites or properties of HWDSB identified through the planning process of the annual Long-Term Facilities Plan.

2.0 Discretionary Disposition Process

- 2.1 Board adopts a resolution that a property is not required for the purposes of the Board (surplus).

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- 2.2 Within 60 days of step 1, Board administration will hold a public Information Session as key communication for the local community.
- 2.3 HWDSB Senior Business Official identifies through the Ministry Intake Form that the property is not required for the purposes of the Board (surplus).
- 2.4 Within 120 days of the property being listed through the intake form the Minister shall:
 - 2.4.1 Identify the person or body to whom the property must be offered, if the Board intends to offer it to any person or body, or
 - 2.4.2 Inform the Board that it may offer the property to any person or body.
- 2.5 If the Minister directs the Board to offer the property to any person or body, the Board shall circulate to the following entities at the same time, with the list below considered the priority order for consideration of offers, prior to going to the open market:
 - 2.5.1 City of Hamilton
 - 2.5.2 Indigenous Organizations
 - i. Metis Nation of Ontario Secretariat
 - ii. Chiefs of Ontario
 - iii. Ontario Federation of Indigenous Friendship Centres
 - iv. Association of Iroquois and Allied Indians
 - v. Nishnawbe Aski Nation
 - vi. Grand Council Treaty #3
 - vii. Union of Ontario Indians
 - 2.5.3 Affordable housing providers within the City of Hamilton Development Charges By-Law.
- 2.6 The entities listed above will have 90 days to submit an expression of interest. If an expression of interest is received, the entity will have 90 days to enter into an agreement of purchase and sale with the Board. If no expression of interest is received within 90 days, the Board may sell on the open market.

3.0 Mandatory Disposition Process

- 3.1 HWDSB Senior Business Official identifies through the Ministry Intake Process that a property is not currently being used and is not needed to meet the Board's current pupil accommodation needs or needs for the next 10 years.
- 3.2 The Minister shall:
 - 3.2.1 Consider whether additional factors need to be considered or consultation needs to be completed before a decision can be made with respect to whether the property must be disposed of; and

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- 3.2.2 After considering any additional factors and completing any consultation referred to in clause (3.2.1), notify the Board whether it is required to dispose of the property and if so, that the Board shall:
 - i. Sell the property, or
 - ii. Lease or otherwise
- 3.3 Within 60 days of the Board receiving direction from the Ministry to dispose of a property, Board administration will hold a public Information Session as key communication service for the local community.
- 3.4 When the Board is directed to dispose of the property, within 120 days the Minister shall:
 - 3.4.1 Identify the person or body to whom the property must be offered, or
 - 3.4.2 Inform the Board that it must dispose of the property but may offer it to any person or body.
- 3.5 If the Ministry direct the Board to dispose of the property to any person or body, the Board will follow steps 2.5 and 2.6 of the Discretionary Disposition Process above.

4.0 Sale of Property on the Open Market

- 4.1 A sale, lease or other disposition of HWDSB surplus property must be a Fair Market Value, with the exception as provided in the Regulation, as guided by Administrative direction by way of:
 - 4.1.1 Public procurement process (opening of tenders closed to the public)
 - 4.1.2 Receive and review offers to Purchase in accordance with this procedure
 - 4.1.3 Publicly advertise and negotiate a sale
 - 4.1.4 Engage a professional real estate firm to sell on behalf of the Board
 - 4.1.5 Transact with an individual purchaser (single source purchaser), when dealing with a unique set of land or development circumstances
- 4.2 Administration will provide a monitoring report to the Board outlining the details of an acceptable offer. All property disposition transactions require:
 - 4.2.1 Compliance with all provincial and municipal requirements
 - 4.2.2 Professional market value assessment
 - 4.2.3 Agreements and/or applications to be in a form satisfactory to the Board's solicitor
- 4.3 Details regarding the sale of Board property is confidential and cannot be released to the public until the sale transaction has closed and title of ownership has been transferred.
- 4.4 Any agreement to sell or dispose of any HWDSB real property to any third party shall be, or deemed to be, conditional upon the exercise or waiver of the Minister's rights to

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approve, cancel, claim or direct the land or interest in question to the Minister or other body as directed by the Minister as provided or required by the Act or Regulation as the case may be.

5.0 Exceptions

- 5.1 The property is disposed of to the City of Hamilton, or a local board of the City of Hamilton with the purpose of acquiring the land to provide one or more of the services described in subsection 2(4) or the Development Charges Act, 1997. These include water supply, wastewater services, storm water drainage and control, highway, electrical power, some transit, policing and fire protection services.
- 5.2 The property is leased to a person or body whose purpose in acquiring the property is to occupy and use the property for the purposes of a childcare centre, a child and family program, a third-party program, or providing a children’s recreation program as described under the Child Care and Early Years Act, 2014.
- 5.3 Exceptions still require Minister’s approval to lease a property that meets the mandatory disposition criteria. These dispositions like all others must be at fair market value.

Revisions:
Procedure updates, May 2026