

	<b>POLICY NO: 2.4</b>
Adopted	2016
Projected Review Date	2029
Revisions	2025

## POLICY: PROPERTY DISPOSITION

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### PURPOSE:

The Hamilton-Wentworth District School Board (HWDSB) is committed 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](#).

### GUIDING PRINCIPLES:

HWDSB recognizes the need to demonstrate:

- Trustee fiduciary responsibilities
- Effective public-sector governance
- Transparent and timely communication
- Compliant property stewardship

### INTENDED OUTCOMES:

When HWDSB is disposing of, leasing or granting easements of entrusted real property assets, HWDSB will:

- Ensure accommodation and community engagement strategies are considered through the disposition process, where appropriate.
- Be in full compliance with all legislative and regulatory requirements within the Act and O. Reg. 374/23.

### RESPONSIBILITY:

Director of Education  
Members of Executive Council

### TERMINOLOGY:

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.

**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 as the Board will be 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.

## **ACTION REQUIRED:**

When disposing of, leasing, or granting easements of entrusted property assets, HWDSB will adhere to the following:

- The Mandatory and Discretionary Disposition processes, including the granting of easements, as outlined in O. Reg. 374/23 will be followed.
- A Discretionary or Mandatory sale, lease or other disposition must be at fair market value, except as otherwise permitted or required by O. Reg. 374/23.

### **Discretionary Disposition Process**

1. Board adopts a resolution that a property is not required for the purposes of the Board (i.e. declared surplus).
2. Within 60 days of step 1, Board administration will hold a public Information Session as key communication for the local community.
3. HWDSB Senior Business Official identifies through the Ministry Intake Form that the property is not required for the purposes of the Board (i.e. declared surplus).
4. Within 120 days of the property being listed through the intake form, the Minister shall,
  - a. 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
  - b. inform the Board that it may offer the property to any person or body.

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:
  - a. City of Hamilton
  - b. 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
  - c. Affordable Housing providers within the City of Hamilton Development Charges By-Law

**Mandatory Disposition Process**

1. 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.
2. The Minister shall:
  - a. 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
  - b. after considering any additional factors and completing any consultation referred to in clause (a), 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. 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.
4. When the Board is directed to dispose of the property, within 120 days the Minister shall,
  - a. identify the person or body to whom the property must be offered, or
  - b. inform the Board that it must dispose of the property but may offer it to any person or body.
5. If the Ministry directs the Board to dispose of the property to any person or body, the Board will follow step 5 of the Discretionary Disposition Process above.

The processes are further defined in the Property Disposition Procedure and O. Reg. 374/23 as well as the prescribed time frames for notification or reporting to the Minister of Education for any acquisition or disposition.

Exceptions to the disposition of property process as identified by O. Reg. 374/23 includes:

- 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) of 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.

- 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.

**PROGRESS INDICATORS:**

<b>Intended Outcome</b>	<b>Assessment</b>
Ensure all accommodation and community engagement strategies are considered through the disposition process.	Measured through the analysis and accommodation strategies in the Long-Term Facilities Plan, and through various community engagement processes and feedback in the disposition procedure.
Be in full compliance with all legislative and regulatory requirements when disposing of, leasing, or granting easements of HWDSB real property.	Measured through the procedures as outlined.

**REFERENCES:****Government Documents**

Education Act

Ontario Regulation 374/23