

REAL ESTATE ACQUISITION AND DISPOSAL

RULES:

1. All school sites will be reviewed by the Superintendent's Site Review Committee prior to being recommended for purchase. See policy 7000. Ancillary facilities do not require a recommendation from the Superintendent's Site Review Committee, but can be reviewed by the Superintendent's Site Review Committee upon direction by the School Board. An ancillary facility is defined as a support or administrative facility other than a school building. Ancillary facilities have to be designated or approved by the School Board. Property considered as expansion sites for existing school sites do not require a recommendation from the Superintendent's Site Review Committee.
2. If district administration believes that an ancillary facility that was previously purchased is no longer needed and should be disposed as surplus property, prior to implementing any formal district process towards declaring the facility surplus, the Facility Planning & Real Estate Department or succeeding department in the case of departmental name change shall consult with the Capital Budget Department to ascertain if any existing financing or contractual arrangements were utilized to purchase the facility, which would prohibit its disposal.
3. Following the School Board's designation of one or more sites in order of preference, staff then initiates the due diligence process which includes obtaining appraisals, a perimeter survey of the property, environmental audit reports, geotechnical studies, traffic studies if necessary and other engineering studies as required.
4. School district staff shall obtain at least one appraisal, by an approved appraiser, for each purchase or disposal of surplus property if the real property is valued between \$100,000 and \$500,000. For each purchase or disposal of surplus property in excess of \$500,000, two appraisals must be obtained (*see f.s.1013.14 (1) (b)*). A Negotiation Parameters Committee (NPC) meeting shall be scheduled once the appraisals are obtained. If the values as determined by two appraisals differ in value by twenty-five (25%) for properties valued at less than \$2,000,000, or differ by \$500,000 for properties valued at \$2,000,000 or more, a third appraisal shall be obtained by school district staff.
5. All proposed offers for purchase or disposal of surplus real property will be determined by a NPC, consisting of the Chief Facilities and Construction Officer, the Treasurer, the Chief of Staff, Office of the Superintendent, the Director of Capital Budget, the Director of Supply Management & Logistics, or their appointed designees, a licensed real estate broker/sales person currently employed by Broward County, and a licensed real estate appraiser currently employed by Broward County. In any real estate transactions between the school district and Broward County government, the licensed real estate broker/sales person and a licensed real estate appraiser serving on the NPC shall be employees of the Broward County Property Appraiser's Office instead of employees of Broward County government. The following provisions shall apply to the real estate broker/sales person, the appraiser, and other Committee members:

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- a. Both shall sign a confidentiality agreement with the school district which at the minimum would require that the real estate broker/sales person and licensed appraiser shall not disclose any information or data about matters before the Committee except as required by applicable law. The confidentiality agreement is hereto appended to this Policy as Exhibit 1.
 - b. The real estate broker/sales person and appraiser shall not conduct any business or be under contract with The School Board while serving as active members on the Committee.
 - c. The real estate broker/sales person and appraiser shall initially serve a one year term, and thereafter, may be reappointed to additional one year terms.
 - d. Members of the NPC shall not be qualified to represent The School Board in any real estate transaction(s) until two (2) years after the conclusion of their service as an active member on the Committee.
6. The NPC shall appoint one of its members as chair of the NPC, and a vice chair. The chair person shall chair all meetings of the NPC, and in the chair's absence, the vice chair person shall chair the NPC meeting. The chair and the vice chair persons shall serve one year terms. A new chair and vice chair may be appointed for new one year terms, or the chair and the vice chair can be reappointed for additional one year terms.
 7. The Facility Planning & Real Estate (FP&RE) Department (or in case of Departmental name change, the succeeding Department (SD)) shall conduct all real estate due diligence regarding the real property slated for acquisition or disposal. Thereafter, the Director, Facility Planning & Real Estate Department will provide the NPC with all pertinent real estate acquisition information and data (including appraisals conducted for each subject property). The NPC upon deliberations shall establish for each real property, a beginning offer and a maximum not-to-exceed offer, that shall be utilized in negotiations regarding the real property. A super majority of the Committee members or their designees shall constitute a quorum in all NPC meetings for the transaction of the Committee's business.
 8. The Director, Facility Planning & Real Estate Department, shall lead all negotiations regarding properties slated for acquisition or disposition. Prior to commencing negotiations for the real property, the Chair of the NPC shall inform the Superintendent of the beginning offer and a maximum not-to-exceed offer that are recommended by the Committee for each property. If the Superintendent agrees with the parameters established by the Committee, the Director, Facility Planning & Real Estate Department, shall commence negotiations utilizing the established parameters. If the Superintendent disagrees with the parameters established by the Committee, the Superintendent shall inform the chair and the chair shall convene another meeting of the NPC to further deliberate and establish a revised beginning offer and a maximum not-to-exceed offer for the property.
 9. Upon the NPC reaching a recommended price for the real property, the Chair of the NPC shall inform the Superintendent about the recommended price before it is disclosed to the property

buyer or seller. If the Superintendent concurs with the price recommended by the Committee, and after disclosure to the property buyer or seller and acceptance by the same, the FP&RE Department shall schedule a Board item which recommends the accepted price for the real property for the School Board's consideration. If the Superintendent disagrees with the price recommended by the NPC, the Superintendent shall direct the NPC to continue negotiations until it obtains an acceptable price for the property.

10. Every appraisal, offer, and counteroffer must be in writing and is exempt from a public records request under the provisions of F.S.119.07 (1) until thirty (30) days before a purchase contract is considered by the School Board. (See F.S. 1013.14 (1) (a)). Consistent with the preceding provision, the Director, Facility Planning & Real Estate Department and pertinent staff shall conduct all negotiations regarding the acquisition and disposal of real property at arm's length. As such, there shall be no face to face negotiations.
11. The School Board staff shall provide written notice to the affected local government that has regulatory authority over the use of the land consistent with the Amended Interlocal Agreement for Public School Facility Planning (Amended ILA) at least 60 days before the initial meeting of the Superintendent's Site Review Committee that the property may be used for a new public educational facility. The local government, upon receipt of this notice, shall notify the board within 45 days if the site is consistent with the land use categories and policies of the local government's comprehensive plan. This preliminary notice does not constitute the local government's determination of consistency.
12. As early in the design phase as feasible and consistent with the Amended (ILA), but not later than 90 days before commencing construction, the School Board shall in writing request a determination of consistency with the local government's comprehensive plan.
13. The local governing body that regulates the use of land shall determine, in writing within 45 days after receiving the necessary information and the School Board's request for a determination, whether a proposed educational facility is consistent with the local comprehensive plan and consistent with the local land development regulations. If the determination is affirmative, school construction may commence and further local government approvals are not required, except as provided in the statute. Failure of the local governing body to make a determination in writing within 90 days after the School Board's request for a determination of consistency shall be considered an approval of the School Board's application.
14. A local governing body may not deny the site applicant based on adequacy of the site plan as it relates solely to the needs of the school. If the site is consistent with the comprehensive plan's land use policies and categories in which public schools are identified as allowable uses, the local government may not deny the application but it may impose reasonable development standards and conditions in accordance with F.S.1013.51 (1) and consider the site plan and its adequacy as it relates to environmental concerns, health, safety and welfare, and effects on adjacent property. Standards and conditions may not be imposed which conflict with those established in this chapter or the Florida building code, unless mutually agreed and consistent with the interlocal agreement required by Subsections (2) - (8). (See F.S. 1013.33 (11) - (13)).

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15. In the event that a property owner is represented by someone other than a licensed real estate professional, a power of attorney will be obtained.
16. On all real estate acquisitions, the School Board shall be furnished with a list of all the owners of the subject property or properties slated for acquisition. If a corporation or partnership is the owner, the seller shall furnish the names of the partners or the names of the officers, their directors or stockholders holding ten percent (10%) or more of the corporate shares. When property is owned by a trustee, the names of the beneficiaries of the trust shall be listed.
17. The School Board Members, staff involved with any active purchases or disposal of real property, and members of the NPC must disclose any direct or indirect business associations they have or their spouses or children have with any party involved with any real estate purchases and disposal. (See F.S.112.313 (3)).
18. Any known significant impediments pertaining to the intended use of the property being acquired or transferred by the School Board shall be brought to the attention of the School Board prior to its approval of the real estate contract.
19. All real estate purchases over \$250,000 and all land purchases in excess of \$500,000 must be brought before the School Board for consideration on an open agenda, and cannot be passed on a consent agenda. An extraordinary vote (one more than the majority of the voting body) of the School Board is required when the agreed upon asking price for a real estate purchase exceeds the average appraisal values. (See F.S. 1013.14 (1) (b)).
20. All sales of surplus district real estate properties must be brought before the School Board for consideration on an open agenda, and cannot be passed on a consent agenda.
21. All purchases of real estate by the School Board shall be for property that is either (a) already zoned for the purpose for which it is intended to be used by the School Board or (b) if rezoning is required, and purchase is contingent upon the property becoming zoned for School Board's intended use, the municipality in that location will be requested to provide a resolution of support within 90 days of contract execution. The property must be rezoned for the School Board's intended use within 180 days of contract execution and prior to closing. Staff will keep the School Board updated on evidence of this support by the municipality. This provision may be waived for any specific purchase by a vote of the School Board.
22. In some instances where it has been determined that the site is consistent with the comprehensive plan's land use policies and categories in which public schools are identified as allowable uses, school construction may commence and further local government approvals are not required. (See F.S. 1013.33).

AUTHORITY: F.S. 112.313 (3); F.S. 1013.14 (1) (A) (B); 1013.33 (11)-(13)

AMENDED: 11/13/01; 03/04/03; 4/15/08; 6/03/08

POLICY ADOPTED: 11/14/00; 8/27/08

