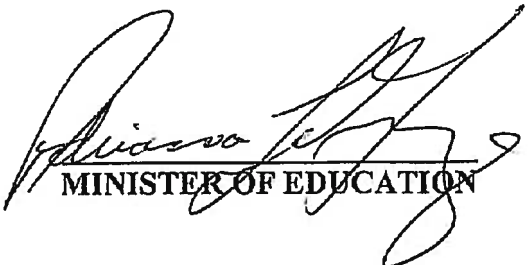


ALBERTA REGULATION 86/2019  
FILED ON August 16 2019

GOVERNMENT OF ALBERTA  
DEPARTMENT OF EDUCATION  
MINISTERIAL ORDER (# 020 / 2019 )

I, Adriana LaGrange, Minister of Education, pursuant to Section 194 of the **Education Act**, make the Order set out in the attached Appendix, being the *Disposition of Property Regulation*.

DATED at Edmonton, Alberta August 15, 2019.

  
MINISTER OF EDUCATION

## APPENDIX

### Education Act

#### DISPOSITION OF PROPERTY REGULATION

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##### **Interpretation**

1(1) In this Regulation,

- (a) “Government contribution” means money provided by the Government for a school building project and includes all money paid to a board from the former School Foundation Program Fund;
- (b) “municipal reserve” means a municipal reserve as defined in the *Municipal Government Act*;
- (c) “municipal and school reserve” means a municipal and school reserve as defined in the *Municipal Government Act*;
- (d) “real estate broker” means a real estate broker as defined in the *Real Estate Act*;
- (e) “school reserve” means a school reserve as defined in the *Municipal Government Act*.

(2) A reference to “Minister” in this Regulation is to be read as a reference to the Minister of Education.

(3) This Regulation applies to charter schools in the manner set out under the *Charter Schools Exemption and Application Regulation*.

**Board policy respecting use of school buildings**

**2(1)** A board must establish a policy respecting the criteria and process used to determine whether the board has use for a school building that has been closed pursuant to section 62 of the Act.

**(2)** A policy referred to in subsection (1) must include, but is not limited to, the consideration of

- (a) demographic factors,
- (b) the length of time that the school building has been closed,
- (c) other public educational uses for the school building, and
- (d) any other criteria the board considers necessary.

**Minister policy respecting use of school buildings**

**3(1)** Notwithstanding section 2, the Minister may establish a policy respecting the criteria and process that a board must apply to determine whether a board has use for a school building that has been closed pursuant to section 62 of the Act.

**(2)** If a policy established by the Minister under subsection (1) differs from a board's policy under section 2, the Minister's policy governs.

**Board policy respecting surplus reserve land**

**4(1)** A board must establish a policy respecting the criteria and process used to determine, for the purposes of section 672 of the *Municipal Government Act*, whether its interest in a school reserve, municipal and school reserve or municipal reserve is surplus to the board's needs.

**(2)** A policy referred to in subsection (1) must include, but is not limited to, the consideration of

- (a) enrolment trends within the area intended to be served by the school reserve, municipal and school reserve or municipal reserve,
- (b) student accommodation and transportation issues,
- (c) whether a school on the school reserve, municipal and school reserve or municipal reserve is included in the board's capital plan,

- (d) the length of time that the school reserve, municipal and school reserve or municipal reserve has existed and has not been needed by the board,
- (e) consultation with other boards with respect to their needs for the school reserve, municipal and school reserve or municipal reserve, and
- (f) any other criteria the board considers necessary.

**Minister policy respecting surplus reserve land**

**5(1)** Notwithstanding section 4, the Minister may establish a policy respecting the criteria and process that a board must apply to determine whether its interest in a school reserve, municipal and school reserve or municipal reserve is surplus to the board's needs.

**(2)** If a policy established by the Minister under subsection (1) differs from a board's policy under section 4, the Minister's policy governs.

**Declaration of surplus reserve land**

**6(1)** If a board is of the opinion that a school reserve, municipal and school reserve or municipal reserve in which the board has an interest is surplus to the board's needs, the board must provide the Minister with a declaration to that effect for the Minister's approval.

**(2)** A declaration under subsection (1) does not take effect until it is approved in writing by the Minister.

**(3)** The Minister may refuse to approve a declaration provided under subsection (1) if the Minister is of the opinion that the board's interest in the school reserve, municipal and school reserve or municipal reserve should be used for public educational purposes.

**(4)** If the Minister refuses to approve a declaration provided under subsection (1), the Minister may require the board to transfer its interest in the school reserve, municipal and school reserve or municipal reserve to another board in accordance with the Minister's direction.

**Declaration by Minister**

**7** Notwithstanding section 6, if the Minister has established a policy under section 5, the Minister may by order declare a board's interest in a school reserve, municipal and school reserve or municipal reserve to be surplus to the board's needs.

**Available space in school building**

**8** When, in the opinion of the Minister, space is available in a school building, the Minister may direct the board operating the school to make that space available to another board.

**Method for sale of property**

**9(1)** If a board intends to sell

- (a) an item of real property that has a value of more than \$100 000, or
- (b) an item of personal property that has a value of more than \$50 000,

the board must conduct the sale in accordance with this section.

**(2)** Prior to selling the property, the board shall obtain 2 or more current independent appraisals of the market value of the property.

**(3)** The sale must be conducted

- (a) by public tender,
- (b) by public auction,
- (c) through a real estate broker, or
- (d) by any other method with the prior approval of the Minister.

**(4)** If the sale is conducted through a real estate broker, the real estate broker must publicly advertise the sale for a minimum of 10 business days.

**(5)** If the sale is conducted by public tender or public auction, the board must publicly advertise the sale for a minimum of 10 business days in any manner that is, under the circumstances, commercially reasonable and likely to be seen by community members and potential buyers.

- (6) The board may only sell the property if
- (a) the bid, tender or offer received is reasonable, in the opinion of the board, having regard to the appraisals it received, and
  - (b) in the case of real property, the Minister approves the sale after the bid, tender or offer is received.
- (7) If the board selling the property obtains the approval of the Minister, subsections (2) to (6) do not apply where the sale is to
- (a) another board,
  - (b) a municipality,
  - (c) a community association,
  - (d) a charitable or non-profit organization,
  - (e) the Crown in right of Canada or its agent, or
  - (f) the Crown in right of Alberta or its agent.
- (8) Subsections (3) to (6) do not apply to
- (a) a sale of a teacherage by a board if the board selling the teacherage obtains the prior approval of the Minister for a procedure for selling the teacherage that is different from that set out in this section, or
  - (b) a sale of a property to which an agreement under section 189(1) of the Act applies if the board selling its interest in the property obtains the prior approval of the Minister for a procedure for selling the property that is different from that set out in this section.

**Sale of real property**

**10(1)** If a board sells a piece of real property, the board must repay all the outstanding debt relating to that real property.

**(2)** If the proceeds remaining from the sale of the real property after the outstanding debt has been repaid under subsection (1) total more than \$200 000, the proceeds must be divided into 2 amounts so that

- (a) one amount bears the same ratio to the remaining proceeds as the Government contribution bears to the total amount of the project for which that contribution was made, and
  - (b) the other amount bears the same ratio to the remaining proceeds as the contribution by the board bears to the total amount of the project for which that board's contribution was made.
- (3) The remaining proceeds referred to in subsection (2) that are attributable
- (a) to the Government contribution under subsection (2)(a) are to be retained by the board and, together with the interest earned, applied only
    - (i) to the cost of a school building project approved by the Minister, or
    - (ii) to the current operations and maintenance of existing buildings with the prior approval of the Minister,and
  - (b) to the board under subsection (2)(b) may be applied only
    - (i) to a capital expenditure, or
    - (ii) to the current operations and maintenance of existing buildings with the prior approval of the Minister.
- (4) If the proceeds remaining from the sale of the real property after the outstanding debt has been repaid under subsection (1) total \$200 000 or less, the proceeds are attributable to the board and may be applied
- (a) to a capital expenditure, or
  - (b) to the current operations and maintenance of existing buildings with the prior approval of the Minister.

**Repeal**

**11** The *Disposition of Property Regulation* (AR 181/2010) is repealed.

**Expiry**

**12** For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on August 31, 2022.

**Coming into force**

**13** This Regulation comes into force on September 1, 2019.