



Province of Alberta

SCHOOL ACT

DISPOSITION OF PROPERTY REGULATION

Alberta Regulation 181/2010

With amendments up to and including Alberta Regulation 28/2018

Office Consolidation

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(Consolidated up to 28/2018)

ALBERTA REGULATION 181/2010

School Act

DISPOSITION OF PROPERTY REGULATION

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Interpretation

1(1) In this Regulation,

(a) “Act” means the *School Act*;

(b) “board” includes

(i) a Regional Authority of a Francophone Education Region, and

- (ii) except in sections 2 to 7, an operator of a charter school;
- (c) “Government contribution” means money provided by the Government to a board for a school building project and includes all money paid to a board from the former School Foundation Program Fund;
- (d) “municipal and school reserve” means a municipal and school reserve within the meaning of the *Municipal Government Act*;
- (e) “municipal reserve” means a municipal reserve within the meaning of the *Municipal Government Act*;
- (f) “school reserve” means a school reserve within the meaning of the *Municipal Government Act*.

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

Part 1 Establishment of Policies

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 the *Closure of Schools Regulation* (AR 238/97).

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

- (a) demographic factors,
- (b) other public educational uses for the school building, and
- (c) any other criteria the board considers necessary.

Policy set by Minister

3(1) Despite 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 the *Closure of Schools Regulation* (AR 238/97).

(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) consultation with other boards with respect to their needs for the school reserve, municipal and school reserve or municipal reserve, and
- (e) any other criteria the board considers necessary.

Policy set by Minister

5(1) Despite 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.

(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 under subsection (2) 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 under subsection (2), 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 Despite 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.

Part 2 Lease, Sale or Transfer of Real Property

Lease of real property

8(1) Notwithstanding section 200(2) of the Act, a board may, without the approval of the Minister,

- (a) lease any real property that is neither a school building nor a portion of a school building,
- (b) lease a school building or portion of it for less than 12 months, and
- (c) lease a school building or portion of it for 12 months or more if the lease contains a termination provision allowing the board to terminate the lease on 12 months' notice.

(2) On leasing a school building or portion of it for 10 days or longer, the board shall

- (a) keep the lease agreement on file at the board's offices, and
- (b) provide to the Minister any information related to the leasing of the school space that the Minister requires.

(3) 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 \$50 000, or

- (b) an item of personal property that has a value of more than \$10 000,

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 by tender or public auction.
- (4) The board shall advertise the sale at least twice in a newspaper circulating in the district, division or Francophone Education Region prior to the sale.
- (5) The board may only sell the property if
 - (a) the bid or tender 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 or tender is received.
- (6) If the board selling the property obtains the approval of the Minister, subsections (2) to (5) 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.
- (7) Subsections (3) to (5) 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 197(b) 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.

(8) If a board offers real property for sale in accordance with subsections (3) to (5) but does not receive a reasonable bid or tender, the board may, with the prior approval of the Minister, list the property with a real estate agent.

Sale of real property

10(1) If a board sells real property,

- (a) the board must repay all the outstanding debt relating to that real property, and
- (b) any proceeds remaining from the sale of the real property must be divided into 2 amounts so that
 - (i) 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
 - (ii) 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.

(2) The remaining proceeds referred to in subsection (1)(b) that are attributable

- (a) to the Government contribution under subsection (1)(b)(i) are to be retained by the board and, together with the interest earned, applied only
 - (i) to the cost of a future 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 (1)(b)(ii) may be applied only
 - (i) to a future capital expenditure, or

- (ii) to the current operations and maintenance of existing buildings with the prior approval of the Minister.

Transfer of real property

11(1) If, with the approval of the Minister, a board agrees to transfer to another board ownership of real property on which a school building is located,

- (a) the amount payable to the transferring board must bear the same ratio to the current independent appraisal of the market value of the land, together with the depreciated value of the school building as set out in the board's most recent audited financial statements, as the contribution by the transferring board bears to the total amount of the project for which that board's contribution was made, and
- (b) it is not necessary for the transferring board to repay any outstanding debt on the school building.

(2) The amount payable under subsection (1)(a) is to be paid by the Government but if the board that is receiving the real property has any school building capital reserves, those reserves must be used to pay the amount payable under subsection (1)(a) and the shortfall, if any, is to be paid by the Government.

Part 3 Repeal, Expiry and Coming into Force

Repeal

12 The *Disposition of Property Regulation* (AR 3/2001) is repealed.

13 Repealed AR 28/2018 s5.

Coming into force

14 This Regulation comes into force on the coming into force of sections 4 to 11 of the *Municipal Government Amendment Act, 2008 (No. 2)*.



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