



CALGARY BOARD OF EDUCATION

Administrative Regulation

8007 - Surplus Classrooms, Schools and Buildings

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Preamble

The disposition of Calgary Board of Education surplus facilities and sites is governed by the School Act, the Disposition of Property Regulation, the Board of Trustees Governance Policies and the Joint Use Agreement.
Section 195 of the School Act says:

“A board shall provide and maintain adequate real and personal property for its administrative and educational purposes.”

Section 200(2) of the School Act says:

“Subject to this section, the regulations, Part 17 of the Municipal Government Act and the Public Lands Act, a board may, with the written approval of the Minister, sell, lease, rent or otherwise dispose of any of its real property.”

The Board of Trustees Executive Limitations, EL-12: Asset Protection, says:

“The Chief Superintendent shall not allow assets to be unprotected, inadequately maintained, inappropriately used or exposed to unnecessary risk. Accordingly, the Chief Superintendent must not:

9. Fail to have assets utilized for the benefit of the community within reasonable costs for both parties;
10. Refuse to examine options that would result in significant savings in costs or enhanced productivity.”

The Board of Trustees’ Policy, Executive Limitations, EL-12: Asset Protection says:

“The Chief Superintendent shall not allow assets to be unprotected, inadequately maintained, inappropriately used or exposed to unnecessary risk. Accordingly, the Chief Superintendent must not:

Acquire, encumber or dispose of real property;”

The Board of Trustees’ Policy, Executive Limitations, EL-13: Facilities/Accommodations says:

“The Chief Superintendent shall not fail to assure that physical facilities support the accomplishment of the Board of Trustees’ Ends policies, are safe, properly maintained, adequate and functional for the programs offered in the school, and demonstrate responsible stewardship of resources.

Accordingly, the Chief Superintendent shall not:

6. Unreasonably deny the public’s use of facilities as long as student functions and the academic program are not compromised.
7. Fail to develop and consistently administer detailed guidelines for use of facilities that include:
 - (a) Permitted uses;
 - (b) The applicable fee structure;
 - (c) Clear user expectations, including behaviour, cleanup, security, insurance and damage repair;
 - (d) Consequences and enforcement procedures for public users who fail to follow the established rules.”

The Calgary Board of Education encourages redeployment or disposition of classrooms and facilities that have become surplus to program requirements.

The Calgary Board of Education supports the licensing of surplus classrooms and leasing of surplus facilities to external organizations whose activities and objectives are compatible with the goals and objectives of the Calgary Board of Education.

The Calgary Board of Education recognizes that licensing of surplus classrooms is a means to reach a provincially set 85% capacity utilization rate across the district or in individual sectors through capacity exemptions.

PART 1 GENERAL

- Definitions** **1** In this regulation
- (a) **“Area”** means a geographic region within the Calgary Board of Education’s jurisdiction established for the purposes of calculating utilization rates;
 - (b) **“Area Director”** means a senior educator whose responsibility it is to ensure educational needs are being met in their designated Area;
 - (c) **“Board-delegated person”** means those Calgary Board of Education employees responsible for programming, student enrolment planning, leasing and licensing of surplus facilities and classrooms;
 - (d) **“capacity exemption”** means a provincial allowance for school boards to deduct the capacity of leased space from their total capacity when calculating the jurisdiction’s provisional utilization rate;
 - (e) **“Joint Use Agreement”** means the tripartite agreement signed by the City of Calgary, the Calgary Board of Education, and the Calgary Catholic Separate School District respecting matters related to the allocation and ownership of Municipal Reserve, School Reserve, and Municipal and School Reserve lands and properties owned in fee simple by the Calgary Board of Education and the Calgary Catholic Separate School District;
 - (f) **“lease agreement”** means a written agreement for exclusive possession of a surplus facility, or, in extraordinary circumstances, a written agreement for the use of a portion of a facility for a determinate period;
 - (g) **“operating and maintenance costs”** means the aggregate of all costs associated with owning, operating, maintaining, and administering a Calgary Board of Education building and building lease;

- (h) **“school authority purposes”** means those purposes that a school board engages in as part of their responsibilities under the School Act;
- (i) **“surplus facility or facilities”** means a vacant facility or facilities in which the Calgary Board of Education has closed the education program and deemed the facility as either temporarily surplus or permanently surplus;
- (j) **“utilization rate”** means the Calgary Board of Education’s student enrolment divided by operational capacity as determined by Alberta Infrastructure. Alberta Infrastructure recognizes a school jurisdiction to be at “full utilization” when it reaches a utilization rate of 85%.

Purpose **2** The purpose of this administrative regulation is to establish the rules and procedures pursuant to which the Calgary Board of Education redeploys, licenses or leases surplus classrooms, schools and facilities.

Scope and application **3** This administrative regulation applies to the sale, disposition, lease or licence of occupation for surplus classrooms, schools, buildings and sites.

PART 2
SURPLUS CLASSROOMS: LICENCE OF OCCUPATION

Definitions **4(1)** In this part

- (a) **“licence of occupation”** means a legal agreement that provides limited use of surplus classrooms that does not interfere with the ordinary operations of the school in operating Calgary Board of Education schools on selected days and during selected hours, generally being school days and school hours with holidays and school closure periods excluded or if feasible at an additional cost;
- (b) **“surplus classrooms”** means those classrooms in operating schools that are available after all Calgary Board of Education space needs for education programs have been met.

(2) As a general principle, it is the intent of the Calgary Board of Education to retain control of access to a school; therefore licences of occupation provide limited access.

Capacity utilization

- 5(1)** The Calgary Board of Education supports the licensing of surplus classrooms to organizations who qualify for provincial capacity exemption in order that the Calgary Board of Education will qualify for provincial funding to build new schools in Calgary's new and developing communities. In accordance with Alberta Infrastructure direction pursuant to provincial policy, "School Expansion Funding, 5.2.1", a school board is only eligible to apply for funding when its utilization within an Area reaches or exceeds 85%.
- (2) In addition to sub-section 1 above, the Calgary Board of Education's strategy for licensing of surplus classrooms is to prioritize facility utilization for school authority purposes and to provide licences of occupation for surplus classroom space in those facilities where student enrolment is 60% or higher based on the Alberta government's utilization and capacity guidelines.
- (3) Licensed surplus classroom space must not exceed 20% of the overall classroom space in any school facility.

Licence of occupation

- 6(1)** Applicants who wish to use surplus Calgary Board of Education classrooms on an ongoing basis must:
- (a) complete the license of occupation application form available on the Calgary Board of Education website at:
www.cbe.ab.ca/parents/Forms/Lease%20Application%20Form.pdf,
- (b) receive approval from the Manager of Property Development , and
- (c) sign the Calgary Board of Education's Licence of Occupation agreement and return it to the Board-delegated person before occupying the premises.
- (2) Licences of occupation shall be for 10 months or less or if, in the opinion of the Board-delegated person, it is feasible, for up to 12 months.
- (3) All licences of occupation are subject to a 30-day termination clause for emergent circumstances as determined by Board-delegated person and subject to strike and lockout interruption provisions of the licence of occupation agreement.

- Applications for licensing surplus classroom space** **7(1)** Applications for licensing of surplus classrooms are the responsibility of the applicant and must be submitted to the Manager of Property Development using the application forms available on the Calgary Board of Education website at:
www.cbe.ab.ca/parents/Forms/Lease%20Application%20Form.pdf.
- (2) The Manager of Property Development or designate will assess applications for licensing of surplus classrooms in consultation with the school principal and the Area Director and may approve an applicant's request for a licence of occupation.
- (3) The Manager of Property Development will maintain a list of all written applications for a licence of occupation for one year.
- Selection of applicants** **8(1)** When selecting applicants for a licence of occupation for surplus classrooms, the Board-delegated person will consider the:
- (a) safety of students, employees and visitors,
- (b) protection of Calgary Board of Education assets,
- (c) financial strength of the proposed licensee,
- (d) compatibility of the proposed use with Calgary Board of Education uses,
- (e) community and social benefits of the proposed use, and
- (f) impact of the proposed licence on the Calgary Board of Education's provincial capacity exemption.
- Priority** **9** In the selection of applicants for a licence of occupation, priority will be given to cross-governmental sector and non-profit sector organizations whose programs and activities are child and student focused and are compatible with and enhance or supplement Calgary Board of Education educational programming, as well as those programs that qualify for provincial capacity exemptions.

- Annual renewal** **10** Annual renewals of licences of occupation are subject to the Calgary Board of Education's space needs for education programs and other activities, as determined in the sole discretion of the Manager of Property of Development.
- Licence of occupation rates** **11** The rates for a licence of occupation for use of surplus Calgary Board of Education classrooms are set by the Board of Trustees from time to time in accordance with
- (a) provincial lease rates for provincial tenants, and
 - (b) Calgary Board of Education operation, maintenance and administrative recovery rates,
- unless
- (c) otherwise approved by the Board of Trustees.
- Role of Area Director** **12(1)** In consultation with school principals, Area Directors are encouraged to identify potential licensees for surplus classroom space to program enhancing and child focused non-profit organizations and notify the Manager of Property of Development of potential licensees.
- (2) The Manager of Property Development is responsible for all licence of occupation approvals and administrative procedures.

**PART 3
SURPLUS SCHOOLS AND BUILDINGS: LEASES**

- Status of facilities upon closure** **13** If a school building is no longer used for school authority activities the Board-delegated person will determine whether the facility and site is temporarily surplus or permanently surplus to the needs of the Calgary Board of Education.
- Permanently surplus** **14(1)** If Board-delegated person cannot identify a use for a surplus facility in the foreseeable future, and having considered deferred maintenance, facility condition, and other costs of ownership, determines that it is in the Calgary Board of Education's best interest to dispose of the facility and/or site, the Board-delegated person will make a recommendation to the Board of Trustees who may declare the facility to be permanently

surplus.

- (2) A permanently surplus facility site may be leased, provided the Board is relieved of any of its obligations under the lease agreement upon sale or disposition of the surplus facility or site, and provided the Board retains a termination clause in the event of sale, demolition, or other disposal of the facility and or site.
- (3) A permanently surplus facility site may be sold or otherwise disposed of subject to Board approval, provincial legislation, and the Joint Use Agreement.

Temporary surplus

- 15(1)** If the Board-delegated person can identify a use for a surplus facility in the foreseeable future or cannot identify a use for a closed facility but, having considered deferred maintenance, facility condition, and other costs of ownership, determines that it is in the Calgary Board of Education's best interest to retain the facility and/or site, the Board-delegated person will declare the facility to be temporarily surplus.
- (2) A temporarily surplus facility and/or site may be leased for an initial term of no longer than 5 years, provided the Calgary Board of Education retains a termination clause allowing reoccupation of the surplus facility and/or site at any time upon one year's notice.

Lease rate

- 16** The rates for a lease of surplus Calgary Board of Education facilities are set by the Board of Trustees from time to time in accordance with
 - (a) provincial lease rates for provincial tenants, and
 - (b) Calgary Board of Education operation, maintenance and administrative recovery rates,unless
 - (c) otherwise approved by the Board of Trustees.

Applications for leasing surplus facilities

- 17(1)** Applications for leasing surplus facilities are the responsibility of the applicant, and must be submitted to the Manager of Property Development in writing, identifying the requested location (school or area of the City), and must include an overview of type of program or activity, and proof of incorporation under appropriate provincial or federal legislation such as the Societies Act or the Companies Act.

- (2) The Manager of Property Development or their designate will assess, and may approve, an applicant's request for a lease.

Selection of applicants

- 18(1)** Selection of applicants to lease surplus facilities is at the Board-delegated person's discretion.
- (2) When selecting applicants for a lease of surplus facilities, the Board-delegated person will consider the:
- (a) protection of Calgary Board of Education assets,
 - (b) financial strength of the proposed licensee,
 - (c) compatibility of the proposed use with Calgary Board of Education uses,
 - (d) community and social benefits of the proposed use, and
 - (e) impact of the proposed lease on the Calgary Board of Education's provincial capacity exemption.
- (3) Selection criteria will also consider prioritization in the Alberta Infrastructure Guidelines in the School Infrastructure Manual as follows:
- (a) Lease to Cross-Government Sector,
 - (b) Lease to Non-Profit Sector (Including ECS, Private Operators),
 - (c) Lease to Charter Schools,
 - (d) Lease to Accredited Private Schools,
 - (e) Lease to Registered Private Schools,
 - (f) Lease to Private Sector for non-Private School use.

Leases to private and charter schools

- 19** Leases to private schools offering K-12 programs and charter schools may be approved by Board-delegated person.

Lease application

- 20** Applications to lease surplus facilities must be submitted to and assessed by the Manager of Property Development.

Five year lease	21	Lease terms are generally 5 years, and in accordance with the provincial Disposition of Property Regulation they must have a one-year termination clause.
Entire facility	22	The Board-delegated person will generally only consider requests for lease of the entire surplus facility.
Termination of lease	23	The Calgary Board of Education's obligation under any lease agreement shall terminate upon sale or otherwise disposition of the surplus facility.
Signed lease prior to occupation	24	All successful applicants for a lease must sign the Board's standard lease agreement prior to occupying the surplus facility.

Approved:	June 23, 2005
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Review date:	October 1, 2011

References

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| Legal References: | <ul style="list-style-type: none"> • School Act R.S.A. 2000 sections 195, 198, 200 • Disposition of Property Regulation, A.R. 3/2001, s. 2 |
| Other References: | <ul style="list-style-type: none"> • Licence of Occupation Form:
www.cbe.ab.ca/parents/Forms/Lease%20Application%20Form.pdf |
| Contact Person: | <ul style="list-style-type: none"> • Manager of Property Development |