



**PORTLAND PUBLIC SCHOOLS
OFFICE OF SCHOOL MODERNIZATION**

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Date: March 9, 2021
To: School Board
From: Dan Jung, Chief Operating Officer
Dana White, Director of Planning & Real Estate Management
Subject: 1st Reading of Policy 8.70.040-P Preservation, Maintenance, and Disposition of District Real Property

BACKGROUND

In 1971 the Board adopted a policy for the Disposition of Surplus Real Property that outlines the procedure for the preservation and rare disposal of any real property that is not essential to the District's mission now or ever. The policy has been amended seven times since 1971, most recently in November of 2018.

The current policy requires real estate transactions be presented to the Board for approval, but does provide the Superintendent or his/her designee authority to sign real estate transactions in which the total value of the transaction is at or below applicable delegation thresholds for District expenditure and revenue contracts, as set forth in PPS Public Contracting Rule 45-0200 (Authority to Approve and Execute District Contracts) and contains a clause that provides the District the right to terminate the contract with thirty days (30) days' notice without cause.

As proposed, the amended policy is substantially enhanced and outlines the Board's intent more clearly. It also provides criteria for justifying less than market terms under extraordinary economic circumstances. More specific changes are as follows:

- Acknowledges that the District's real property assets are on the traditional land of the Chinook, Clackamas, Kalapuya, Multnomah, Wasco, Kathlamet, Tualatin, and Molalla tribes;
- Acknowledges that Portland institutions and citizens participated in redlining and structurally organized policies, zoning, and planning that restricted or prevented Black, Indigenous, and communities of color from land ownership and led to their disproportionate displacement through "urban renewal" or gentrification;
- Aligns the policy more closely with the District's Racial Equity and Social Justice goals;
- Strongly affirms that only on rare occasions will the District sell a real property without replacing that property with an equivalent or better property;

- Provides additional guidance and clarity around the preservation and disposition of District real property and specific evaluation criteria to guide decisions that may deviate from current market terms;
- Allows staff to efficiently convey real property rights-of-way or easements that are imposed as a condition of approval of District development and maintenance projects; and
- Allows staff to negotiate contracts, without Board approval, at or below applicable delegation thresholds for District expenditure and revenue contracts if they provide a termination right with ninety (90) days' or less notice.

On March 8, 2021, the Board Policy Committee will consider a proposed amendment to the policy which was first read by the Board on February 9, 2021, which:

- Expressly connects our Racial Equity and Social Justice goals to sales and leases of our properties and makes proof of financial need under extraordinary circumstances one of several factors to consider.

RELATED POLICIES/BEST PRACTICES

8.70.043-AD Process for Disposing of Surplus Real Property

8.70.044-P Capital Asset Renewal Funds and Plans

It is best practice for public educational institutions to retain its real estate assets for both foreseeable and unforeseeable changes in space demands and enrollment. Favorable tax structure and various lease opportunities can also provide a favorable income stream on idle assets.

ANALYSIS OF SITUATION

Operationally, the proposed changes to the Policy 8.70.040-P Preservation, Maintenance, and Disposition of District Real Property provide a clear direction that the sale of a District property is an unlikely event and will require a thorough analysis of the implications on fulfillment of the District's educational mission over the next 100 years. It also directs a strong preference that any long-term disposition of District property be in the form of a long-term lease rather than a sale, and that, in the rare event of a sale, the District should replace the sold property with an equivalent or better property.

The proposed policy changes also provide specific evaluation criteria that the Board must consider if deviating from current market lease terms.

FISCAL IMPACT

Adoption and implementation of this policy may result in lost revenues, but may also provide direct benefit both monetary and otherwise to the District. Development of the Administrative Directive will codify the process that staff should follow in the consideration of transactions involving District real estate. All real estate transactions valued at \$150,000 or greater or that have termination clauses greater than ninety (90) days will be submitted to the Board for

approval, except in the instance where a transaction is imposed as a condition (*i.e.*, a utility or right-of-way easement) of approval of District development and maintenance projects.

COMMUNITY ENGAGEMENT

The policy was amended over several months and in public meetings under the direction of the Board Policy Committee that includes two student representatives. PPS Senior Director of Racial Equity & Social Justice provided useful input on different approaches to land policy from tribal representatives at other public entities.

The proposed policy was unanimously approved to move forward to the first reading at the February 9 Board Meeting. At the February 17 Board Policy Committee meeting Director Brim-Edwards indicated that she would be bringing forward an amendment that would be shared with the Committee Chair and the rest of the committee prior to the March 9 Board Policy Committee meeting and discussed the nature of the amendment. If approved by the Board Policy Committee at the meeting on March 8, the full Board will consider the revised policy for a second reading at the March 9 board meeting.

TIMELINE FOR IMPLEMENTATION / EVALUATION

The policy is effective immediately upon final adoption by the Board.

BOARD OPTIONS WITH ANALYSIS

1. Approve Policy 8.70.040-P Preservation, Maintenance, and Disposition of District Real Property.
2. Refer Policy 8.70.040-P Preservation, Maintenance, and Disposition of District Real Property back to the Policy Committee for revision.

CONNECTION TO BOARD GOALS

This proposed policy formally recognizes the District's role as current caretakers of ancestral land and the District's fiduciary responsibility to preserve and maintain its real property assets in a manner that will serve current students and future generations, including keeping land in the public domain. It also aligns the policy more closely with the District's Racial Equity and Social J goals

STAFF RECOMMENDATION

Staff recommend the adoption of the amended.

As a member of the PPS Executive Leadership Team, I have reviewed this staff report.

_____ (*Initials*)

ATTACHMENTS

- A. Policy 8.70.040-P Preservation, Maintenance, and Disposition of District Real Property (REDLINE)
- B. Policy 8.70.040-P Preservation, Maintenance, and Disposition of District Real Property