

[See POLICY ALERT No. 213]

## R 7102 SITE SELECTION AND ACQUISITION

The school district may need to select and acquire new sites for school district facilities. Site acquisition for school purposes and every acquisition of land will be made pursuant to N.J.A.C. 6A:26-3.12 and N.J.A.C. 6A:26-7.1 through 7.3.

### A. Acquisition of Land by School Districts - N.J.A.C. 6A:26-3.12

Every acquisition of land, whether by purchase, condemnation, or by gift or grant, to be used as a school site shall comply with N.J.A.C. 6A:26-7 and receive approval.

### B. Approval of the Acquisition of Land - N.J.A.C. 6A:26-7.1

#### 1. Voter Approval - N.J.A.C. 6A:26-7.1(a)

The school district may obtain voter approval for funding of land acquisition prior to the Division of Administration and Finance (Division) approval of the land acquisition. The school district shall not take any action to acquire the land prior to obtaining Division approval.

#### 2. Submission to the Division of Administration and Finance - N.J.A.C. 6A:26-7.1(b)

The school district, or the New Jersey Schools Development Authority (Development Authority) on behalf of the district, shall submit to the Division the following information to obtain approval under B.1. above for land in connection with a school facilities project. The following requirements do not address requirements of other State agencies having approval or permitting jurisdiction over land acquisition:

#### a. The following information shall be provided by the school district:

- (1) A written request that shall include a statement, signed by the Board President and the Superintendent, indicating the immediate and ultimate proposed uses of the site, in terms of building use, grade organization, and potential maximum enrollment, and whether the land is, or will be, part of a school facilities project indicated in the district's LRFP;



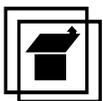
- (2) A map of the school district showing the location of the land, the location of existing schools in the school district, the attendance area to be served by the school, and the number of students who reside within the attendance area;
  - (3) Data regarding the impact of the acquisition upon racial balance within the school district's public schools;
  - (4) A full, detailed appraisal of the market value of the property prepared by a licensed professional;
  - (5) A title report on the property produced by any reputable title insurer licensed in the State of New Jersey evidencing that title is good and marketable;
  - (6) A feasibility study evidencing that school district-owned land within the attendance area to be served by the school is not available, suitable, or sufficient to be used for school purposes, but only if the school district is required to use the Development Authority and seeking approval for a new acquisition of land and not merely a new use for already school district-owned land; and
  - (7) For a school district required to use the Development Authority and seeking approval for the acquisition of land, evidence that the school district has not indemnified the seller of the land for the costs arising from the environmental remediation required for the property to be used for school purposes; acquired the land in its "as is" condition; or acquired the land under terms and conditions that would invalidate the statutory immunity of the school district from liability for the remediation costs associated with pre-existing contamination, whether discovered pre-closing or post-acquisition, under the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq.
- b. The following information shall generally be provided by a licensed architect, professional engineer, or professional planner in accordance with N.J.A.C. 6A:26-7.1(b)(2):



- (1) A statement from the licensed architect, professional engineer, or professional planner indicating whether the land is subject to regulation under the Coastal Wetlands Act - N.J.S.A. 13:9A-1 et seq.; the Freshwater Wetlands Act - N.J.S.A. 13:9B-1 et seq.; the Pinelands Protection Act - N.J.S.A. 13:18A-1 et seq.; the Waterfront Development Act - N.J.S.A. 12:5-3; the Green Acres Acts - N.J.S.A. 13:8A-1 et seq., N.J.S.A. 13:8A-19 et seq., N.J.S.A. 13:8A-35 et seq., and N.J.S.A. 13:8C-1 et seq.; or other statutes, regulations or executive orders administered by agencies of State or Federal government;
  - (a) If so subject, the statement shall address the steps necessary to obtain approval from the agencies, and include adequate documentation to demonstrate to the Division the approvals will be obtained and not affect the educational adequacy of the site, as set forth in B.4. and B.5. below.
- (2) A statement from a New Jersey licensed architect, professional engineer, or professional planner indicating whether the proposed use of the land to be acquired is consistent with the goals and strategies of the New Jersey State Development and Redevelopment Plan (State Plan). If inconsistent with such goals and strategies, the statement shall include adequate documentation to demonstrate to the Division there are no alternative suitable sites available in the school district that are consistent with the State Plan's goals and strategies;
- (3) A statement from a New Jersey licensed architect, professional engineer, or professional planner indicating the land to be acquired is suitable for the proposed use;
- (4) A completed, signed, and sealed plot plan of the land to be acquired showing topographical and contour lines; adjacent properties indicating current land uses; access roads; deed restrictions; easements; protective covenants; right of ways; and environmentally sensitive areas such as waterways and wetlands. The acreage and dimensions of the tract proposed for acquisition shall be included as per the application of the standards for minimum acceptable school site sizes in B.4. below;



- (5) If existing buildings or structures are located on the land to be acquired, the intended use, and/or disposition of these buildings. Any building to be acquired and used shall comply with the requirements of the Uniform Construction Code (UCC) for educational occupancy and N.J.A.C. 6A:26-5 that apply to the construction of a new building;
  - (6) Adequate documentation to demonstrate to the Division that soil conditions for structural integrity and drainage have been examined by the New Jersey licensed architect or professional engineer; and
  - (7) Adequate documentation to demonstrate to the Division that soil and groundwater conditions have been examined by a New Jersey licensed architect or professional engineer for suitability for septic systems, if applicable.
- c. The following shall be submitted by the school district in accordance with N.J.A.C. 6A:26-7.1(b)3:
- (1) A statement from a local or regional water purveyor or alternatively, a statement from a geologist or professional engineer if the source of water is groundwater, certifying that:
    - (a) The land can be adequately provided with the necessary water for the proposed maximum enrollment, and if the source of water is groundwater, that there will be sufficient groundwater available for the proposed maximum enrollment; and
    - (b) Potable water infrastructure is, or is not, in place to service the site.
  - (2) A statement from a local or county sewerage agency certifying that:
    - (a) The land can be adequately provided with the necessary and acceptable sewage disposal system for the proposed maximum enrollment, as evidenced, for example, by consistency with the locally approved wastewater management plan; and



- (b) Sewer infrastructure is, or is not, in place to service the site. If such infrastructure is not in place, adequate documentation from a professional engineer or licensed geologist to demonstrate that soil and groundwater conditions are suitable for a septic system or discharge to groundwater.
- (3) Recommendations from the New Jersey Department of Environmental Protection (NJDEP) that there are no substantial reasons why the land acquisition should not proceed within forty-five days of its receipt of an environmental site report submitted by the school district or the Development Authority on behalf of the school district addressing the items below, or evidence that forty-five days have passed since the NJDEP's receipt of the environmental site report, whichever is earlier:
  - (a) A sewer service consistency determination;
  - (b) Potable water supply;
  - (c) Coastal and freshwater wetlands;
  - (d) Green Acres land;
  - (e) Stream encroachment;
  - (f) Historical or archeological resources;
  - (g) Endangered plant species;
  - (h) Threatened or endangered animal species; and
  - (i) An environmental site assessment to determine whether there is potential contamination on the land, submitted on a form provided by the New Jersey Department of Education (NJDOE).
- d. The following shall be submitted by the school district in accordance with N.J.A.C. 6A:26-7.1(b)4:
  - (1) Recommendations of the planning board or the municipality in which the land is situated, and that has an approved master plan as required by N.J.S.A. 40:55D-31 and N.J.S.A. 18A:18A-16, or



evidence that the applicable forty-five days or fifty-five days have passed, whichever is earlier, from the planning board's receipt of the land acquisition application. The recommendations shall be sent to the Division of Administration and Finance, Office of School Facilities, PO Box 500, Trenton, NJ 08625-0500, and forwarded promptly to the Division at the above address if received by the school district or its architect;

- (2) The recommendation of the Executive County Superintendent based on the requirements specified in N.J.A.C. 6A:26-7; and
  - (3) Prior approvals of other agencies, such as the New Jersey Department of Agriculture, NJDEP, and the Pinelands Commission, where such approval is reasonably obtainable prior to acquisition.
3. Land Acquisition for Non-School Facility Project - N.J.A.C. 6A:26-7.1(c)
- a. A school district that intends to acquire land not in connection with a school facilities project shall submit all of the information required under N.J.A.C. 6A:26-7.1(b) except N.J.A.C. 6A:26-7.1(b)1.ii and N.J.A.C. 6A:26-7.1(b)1.iii, and shall further be excepted from the requirements of N.J.A.C. 6A:26-7.1(d) and N.J.A.C. 6A:26-7.1(e). If the school district later intends to change the use of the land and use as a school site, the school district shall be required to submit all of the information required under N.J.A.C. 6A:26-7.1 and the aforementioned exceptions shall no longer apply.

4. School Site Size - N.J.A.C. 6A:26-7.1(d)

School site sizes shall be directly related to the acreage required for the structures and activities to be situated thereon. Except where specifically noted for multiple or shared use, the acreage shall be considered for single use.

5. School Site Size Requirements - N.J.A.C. 6A:26-7.1(e)

All school sites require sufficient acreage for the following:

- a. The placement of the school facility;



- b. Expansion of the building to its maximum potential enrollment;
  - c. The placement of all other structures such as greenhouses, storage buildings, school bus maintenance buildings or garages, and any other above or below ground structure, which is to be placed thereon;
  - d. Multi-purpose physical education and, for preschool through grade five school facilities, a playground required to support the achievement of the New Jersey Student Learning Standards as defined by the number of physical education teaching stations applicable to the school facility pursuant to the facilities efficiency standards and the approved programmatic model;
  - e. Disabled-accessible pedestrian walkways, roadways, and parking areas on which people and vehicles access the building;
  - f. Public and service access roads onto the site including, where warranted, a one-way school bus road of thirty foot width and a two-way road of thirty-six foot width; a school bus drop-off area; and eighteen foot wide posted fire lanes for fire apparatus; and
  - g. A thirty-foot wide access around the entire building.
6. Land owned by the Board of Education that does not meet the standards of N.J.A.C. 6A:26-7.1 may be supplemented by adjacent municipally owned land if it is formally leased on a long-term basis to the Board for exclusive use during school hours and there are no deed restrictions that prohibit school district use.
7. The Division's approval shall remain effective for three years, after which time Division approval shall again be required to be obtained prior to acquiring land.
- C. Approval of the Acquisition of Land in Certain School Districts Under the Development Authority's Auspices - N.J.A.C. 6A:26-7.2
- 1. The Development Authority may acquire land on behalf of a school district eligible for one hundred percent State support of final eligible costs for school facilities projects that are consistent with the school district's approved LRFP. For such school districts, the NJDOE shall require submission of all information



set forth in N.J.A.C. 6A:26-7.1(b) to demonstrate compliance with N.J.A.C. 6A:26-7.1. The Development Authority may submit the required information on behalf of such school districts.

D. Approval for the Acquisition of Existing Facilities - N.J.A.C. 6A:26-7.3

1. The Board planning to acquire an existing facility through purchase, gift, lease, or otherwise shall comply with all procedures and rules pertaining to the appropriation and use of capital funds as required by N.J.S.A. 18A:20-4 and 4.2. The school district shall also have the facility approved in accordance with N.J.A.C. 6A:26-3, which applies to the acquisition of a school site and for the construction of a new facility.
2. Facilities to be procured for temporary use shall comply with N.J.A.C. 6A:26-8 if subject to educational-adequacy review pursuant to N.J.A.C. 6A:26-5.4(c) because the facilities will house students.

Approved:

