

STEPS TO BE TAKEN IN SELLING AND DISPOSING OF STATE-OWNED SCHOOL PROPERTY

1. The first step in selling, exchanging or leasing school property is to determine what "type" property is to be sold, exchanged or leased. There are three types of school-related property which are briefly described below:

- A. SIXTEENTH SECTION LANDS. "Sixteenth Section" lands are those lands which were donated to the State of Alabama by the United States Government for the use of schools and which are generally within the sixteenth section of various townships of Alabama counties. These lands may be sold or exchanged for other lands by the Commissioner of the State Department of Conservation and Natural Resources with the approval of the Governor and State Superintendent of Education.

If the property is sixteenth section land, then consult with your local board attorney and the State Department of Conservation and Natural Resources, Division of State Lands.

- B. LOCAL BOARD OF EDUCATION PROPERTY. "Local board of education property" is that type of property which is owned by your local county or city board of education.

If the property is local board of education property, then consult with your local board attorney. The State of Alabama is not involved in such transactions.

- C. STATE-OWNED SCHOOL PROPERTY. "State-owned school property" is that type property which was deeded to the State of Alabama for school purposes. Legal title to such property is vested in the State of Alabama, while beneficial title is vested in the applicable county or city board of education. In effect, this type ownership may be analogized to a trust: the trustee is the State of Alabama, and the beneficiary of the trust is the county or city board of education. The decision-making authority is the State. Yet, if the property is sold, then the proceeds of the sale go to the county or city board of education and the "trust" is thereby terminated. The roles of the State of Alabama and your local board of education are defined in Code of Alabama (1975) Sections 16-20-8 and 16-20-9, as follows:

Whenever the county board of education of any county shall certify to the State Superintendent of Education that it is to the benefit of the public school interest of such county, or a public school district thereof, for any lands situated in such county or district which have been conveyed to the State of Alabama for school purposes to be sold, particularly describing the same, the superintendent of education, upon receipt of such certificate, with approval of the governor, shall negotiate the sale of such land, either at public or private sale. A deed to the purchaser of such land shall be executed and shall be issued as provided by law.

The proceeds of any sale of lands made under Section 16-20-8 shall be paid by the State Superintendent of Education to the county custodian of school funds where such land is situated.

If the property is State-owned school property, then, at the board's request, the State Superintendent of Education will negotiate the sale of such property.

Section 16-3-26, Code of Alabama (1975), provides for the leasing of State-owned school property. For leasing property, local boards of education should follow the same procedures as those for selling State-owned school property.

2. All requests for the sale* of State-owned school property should be made on the regular "Certificate of County Board to the State Superintendent Requesting Sale of School Property" forms which will be furnished to superintendents upon their request.
3. The local board of education should pass a resolution explaining in full the condition of the property and recommending to whom the sale should be made and at what price, stating that it is to be in the best interest of the schools of the county to sell or exchange the property in accordance with Section 16-20-8, Code of Alabama (1975). This resolution should be copied in the first set of blank lines (or shown as Attachment A and noted there) on the certification form. The property should be advertised and sold at public sale unless a good reason can be offered for otherwise selling the property. When advertising, the board should reserve the right to reject any and all bids.



*Note: State Lands cannot be donated to private interests (Constitution of Alabama, Sections 93, 94 and 99).

4. All sales should be made subject to the approval of the State Superintendent of Education and the Governor (Pursuant to Code of Alabama 1975, Section 16-20-8).
5. The nature of the sale or exchange should be checked in the proper space—whether “Building and Land,” “Building Only,” or “Land Only.”
6. The second set of blank lines should carry a description of the property to be sold or exchanged. The description should be taken from the original deed which is recorded in the county records. The volume and page where the deed is recorded must be included. This information may be typed on the form or shown as Attachment B and noted there. All legal descriptions must be clear and legible.
7. Some State-owned school property has never been recorded and filed with the State Department of Education; however, title to this property is still vested in the State of Alabama. Should you and your local board of education wish to sell property which has not been properly recorded and filed with the Department of Education, you must follow the procedures as outlined herein. IN ADDITION, you must obtain a certified copy of the deed from the Office of the Judge of Probate and forward this copy to the State Department of Education.
8. The county/city superintendent should sign the certification form at the bottom of both pages as “Executive Officer of the County/City Board of Education” and complete all blanks on the back of the certification form.
9. Upon receipt of the Certificate properly filled out and accompanied by a cashier’s check or certified check for each plot sold made payable to the State Superintendent of Education representing the highest and best bid received on the property, subject to the approval of the State Superintendent of Education representing the highest and best bid received on the property, subject to the approval of the State Superintendent and the Governor, a deed will be made in this Department conveying to the purchaser the State’s full interest in the property which has been purchased.
10. The deed, together with a receipt and cashier’s check or certified check endorsed by the State Superintendent of Education to the custodian of school funds, will be sent to the local superintendent. He is requested to deliver the deed to the proper authority, deliver the check to the custodian, and sign and return the receipt to the State Department of Education.

11. No buildings should be razed or removed from State-owned school property without the consent of the State Superintendent of Education. If the board of education thinks it desirable to raze or remove a building, a resolution to this effect requesting the State Superintendent of Education to give his consent should be passed and a copy sent to the State Superintendent of Education.
12. Preferably, when a deed is made to a church or community organization, that church or organization should be incorporated; however, if it is not incorporated, it is necessary to have the names of at least three trustees or officials who have the legal right to transact the business of such organization or church. (BAPTIST DEACONS CANNOT BE GRANTEEES, ATTORNEY GENERAL, MAY 7, 1965).
13. The same procedure should be followed and the same form used in requesting right-of-way deeds.
14. Regarding lands deeded for school purposes between July 28, 1919 and October 1, 1927, for a nominal sum, please refer to the attached Attorney General's Opinion.
15. When State-owned school property is sold for \$1.00 and other valuable consideration, a reversion clause is written in the deed from the State of Alabama to the purchaser. When State-owned school property is sold for means other than monetary, those means should be clearly stated as follows: "sold for \$1.00 and other valuable consideration, namely, use of property by local board of education, improvements to be made on such property".
16. If the value of the property to be sold exceeds \$20,000, the sale is handled by the Department of Conservation and Natural Resources, State Lands Division. A completed "Certificate of County Board to the State Superintendent requesting Sale of School Property" form and a board resolution will still be required. Information should be sent to the State Superintendent of Education who will request that the sale be handled by the Conservation Department. (Pursuant to Code of Alabama 1975, Section 9-15-72)

**CERTIFICATE OF COUNTY BOARD TO THE STATE SUPERINTENDENT REQUESTING
SALE OF SCHOOL PROPERTY**

STATE OF ALABAMA,

County. }

TO THE STATE SUPERINTENDENT OF EDUCATION,
MONTGOMERY

WHEREAS

*Note—Write resolution in full. State price at which Board thinks property should sell.

NOW THEREFORE, the County Board of Education of _____ County,
hereby certifies that it is to the benefit of the public school interests of District No. _____

County, that the following described school property—

BUILDING AND LAND; BUILDING ONLY; LAND ONLY.
(Place check mark before what is being sold)

located in said District, which has been conveyed to the State of Alabama for school purposes under
the provisions of Title 16, Section 16-20-8, Code of Alabama 1975, be sold, to-wit:

(Taken from _____ County Court Records, Vol. _____, Page _____) *

Date _____

(Signed) _____
Executive Officer of County Board of Education

County.

Notes 1* Be sure to give volume and page where deed is recorded.

2 Fill out all blanks on the opposite side of this sheet.

Description of Building:

- 1. Number of rooms in building _____
- 2. Condition of roof _____
- 3. Ceiled Yes. No.
- 4. Date erected _____
- 5. Fair market value is \$ _____
- 6. State aid granted in erection \$ _____ Repairing \$ _____ Total _____
- 7. A small picture of the building is enclosed Yes (Check).

Proposed Sale:

1. Under the law the State Superintendent of Education and the Governor are authorized to sel. lands which have been conveyed to the State for public school purposes. Has this property been offered by the county board of education subject to the above requirements?.....

2. Was it offered at public sale?..... If so, how advertised.....

3. Number present at sale.....

4. Number bids received..... Highest \$..... Lowest \$.....

5. If offered at private sale state reasons why.....

6. To whom does the county board recommend that the sale be made and for what price?

Name	Address	\$	Amount
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7. Is a certified or cashier's check payable to the State Superintendent for the amount given above enclosed? Yes..... No.....

Dated.....

(Signed) _____
Executive Officer of County Board of Education

_____ County.

Resolution of Use

The _____ Board of Education hereby resolves and certifies that the proceeds from the sale of this realty will be used for any purpose for which our local superintendent is authorized by state law to recommend and for which the local board is authorized by state law to approve.

PRESIDENT OF THE BOARD OR THE SUPERINTENDENT

Date

CONSTITUTION OF ALABAMA

Section 99. Lands belonging to or under the control of the state shall never be donated, directly or indirectly, to private corporations, associations, or individuals, or railroad companies; nor shall such lands be sold to corporations or associations for a less price than that for which they are subject to sale to individuals; provided, that nothing contained in this section shall prevent the legislature from granting a right of way, not exceeding one hundred and twenty-five feet in width, as a mere easement, for railroads or telegraph or telephone lines across state land, and the legislature shall never dispose of the land covered by such right of way except subject to such easement.

C O P Y

January 26, 1943

Hon. E. B. Norton
State Superintendent of Education
Capitol

Dear Sir:

Your letter of January 7, 1943, asking whether or not Act No. 187, H. 264, approved July 28, 1919, (General Acts 1919, page 187) is repealed by the 1940 Code, has been referred to me for attention and reply.

Act No. 187, supra, was not placed in the 1923 Code. It was, however, not repealed by such omission because of Section 12 of the 1923 Code.

The laws relating to public schools and education were, however, codified into the Alabama School Code of 1927. This Code became effective on the first day of October, 1927, in pursuance of the Governor's proclamation contained in such Code. Act No. 187, supra, was not contained in the Alabama School Code of 1927 and was, therefore, in my opinion, repealed as of the first day of October, 1927.

The law is well settled in Alabama; however, that when a statute such as this is repealed, vested rights which have accrued under such a statute remain. Blake vs. State, 178 Ala. 407, 59 So. 623. It is, therefore, my opinion that those persons that deeded land to the State for public school purposes for a nominal consideration in accordance with Act 187, supra, between July 28, 1919, and October 1, 1927, acquire a vested right of remainder as outlined in said Act and are, therefore, still entitled to the reversion mentioned therein, when such land is abandoned for school purposes.

Yours very truly,

WILLIAM N. McQUEEN
ACTING ATTORNEY GENERAL
By -

JOHN W. VARDEMAN
Assistant Attorney General

JWV:ap

THE ATTORNEY GENERAL

STATE OF ALABAMA · MONTGOMERY, ALABAMA 36104

JUL 11 1973



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ATTORNEY GENERAL

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DEPUTY ATTORNEY GENERAL

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JACK D. SHOWS
CHIEF INVESTIGATOR

June 29, 1973

*Copy for: Board Members
Directors*

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Dr. LeRoy Brown
State Superintendent of Education
State of Alabama
State Office Building
Montgomery, Alabama 36104

Dear Dr. Brown:

I have your letter of recent date in which you ask the following questions:

- "1. Is it permissible for a board of education to divest itself of title to real or personal property without receiving compensation for the property?
- "2. Is there any legal basis for requiring local boards of education to receive a 'fair market price' for school lands it may desire to sell?"

My answer to your first question is in the negative.

The courts of this State have held on many occasions that the State of Alabama or any of its agencies or institutions may not give away property unless there is a specific statutory provision for the same, and I find no statutory provision authorizing a board of education to dispose of its property without receiving compensation therefor.

In answer to your second question, you are advised that the Courts of this State consider the "fair market price" of any given piece of property to determine whether or not the agency

Dr. LeRoy Brown
Page 2

disposing thereof has received just compensation for this property.

Yours very truly,

WILLIAM J. BAXLEY
Attorney General

By -

William N. McQueen
WILLIAM N. McQUEEN
Assistant Attorney General

WNM:kh

THE ATTORNEY GENERAL

STATE OF ALABAMA · MONTGOMERY, ALABAMA 361



MAY 18 1977

May 12, 1977

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JACK D. SHOWS
CHIEF INVESTIGATOR

Honorable Joe R. Sport
Superintendent
Crenshaw County Public Schools
Luverne, Alabama 36049

Property deeded to State between 1919 and 1927 for a nominal consideration for school purposes, reverts to original owner when school purposes abandoned.

Dear Mr. Sport:

I have your letter in which you request an opinion from this office regarding whether Act No. 187, Legislature of Alabama, 1919 gives a vested right of reverter to persons who deeded land to the State for school purposes and for a nominal consideration? The answer to your question is in the affirmative.

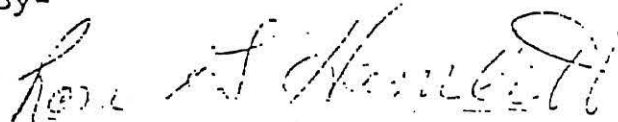
On January 26, 1943, this office rendered an opinion to E. B. Norton, State Superintendent of Education, in which we held the effective dates of Act No. 187, supra, to be July 28, 1919 through October 1, 1927. We further held that those persons who deeded land to the State for public school purposes for a nominal consideration between July 1919 and October 1927 retained by law a vested right to have said property revert to them upon its use for school purposes becoming abandoned. Our opinion of 1943 is hereby reaffirmed.

Honorable Joe R. Sport
Page two
May 12, 1977

We acknowledge your letter of a later date in which you enclose a letter concerning the purported history of the title to the property in question. For aught that appears from that letter the property was not acquired by the State by deed until 1924. Therefore the provisions of Act 187, supra, are operative.

Sincerely,

WILLIAM J. BAXLEY
Attorney General
By-

A handwritten signature in cursive script, appearing to read "Rosa G. Hamlett".

ROSA G. HAMLETT
Assistant Attorney General

RGH/ca

§ 9-15-72. Lands Division responsible for selling or leasing property.

Each department, board, bureau, commission, institution, corporation, or agency which holds real property shall notify the Lands Division of the state Department of Conservation and Natural Resources of its desire and intention to sell or lease any of the real property and shall provide such information as may be specified by the Lands Division. The Lands Division shall be responsible for obtaining the appraisal, deed, and other documents needed for selling or leasing the property under this article and for handling the closing of the sale or lease. No sale or lease involving an amount of more than twenty thousand dollars (\$20,000) shall be divided into smaller parcels involving less than twenty thousand dollars (\$20,000) for avoiding the requirements of this article. (Acts 1995, No. 95-280, p. 507, § 3; Act 2000-685, p. 1390, § 1.)

HISTORY

(\$20,000)" for "ten thousand dollars (\$10,000)" in two places.

Amendment notes:

The 2000 amendment, effective August 1, 2000, substituted "twenty thousand dollars