

702 KAR 4:050. Building sites; inspection, approval.

RELATES TO: KRS 156.160, 162.010, 162.060

STATUTORY AUTHORITY: KRS 156.070, 156.160

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160 requires the State Board for Elementary and Secondary Education to prescribe administrative regulations relative to sanitary and protective construction of public school buildings; KRS 162.010 requires fee simple title to school property; and KRS 162.060 requires plan and specification approval for school construction by the chief state school officer. This administrative regulation provides for the location of school buildings in accordance with the program approved by the chief state school officer.

Section 1. Definitions. (1) In determining the location of an acceptable site, the term "in the vicinity of," as used in educational facilities plans, shall be defined as within a one (1) mile radius of a specific point or the main highway intersection (center) of a city or one (1) mile beyond any two (2) specific points referenced in the facility plan priority. No site shall be approved which exceeds the one (1) mile limit.

(2) A "major renovation" is a renovation of three (3) or more building systems in a permanent center with a total cost of more than twenty (20) percent of the current replacement cost of the building. The building may be the entire permanent center or a clearly, definable portion of the center (such as, 1973 addition, senior high wing, or physical education facility). The renovation shall have been identified in a district facility plan as a priority in order to be allowed. Building systems are defined as foundations, exterior walls, roofing, ceilings, structural, mechanical (HVAC), electrical (including lighting), plumbing, sewage and storm water disposal, doors and hardware, windows, floor coverings, and fixed equipment. The renovation shall also meet the criteria set forth in the school durability section of the school facilities construction criteria adopted by 702 KAR 1:001 and consist of work that extends the useful life of the structure and work that is not considered as routine maintenance.

Section 2. The chief state school officer shall cause an inspection to be made of each proposed school building site or proposed real property acquisition including site addition upon written request of the local board of education. Site approval shall be given by the chief state school officer prior to any purchase or commitment to purchase, except that an option-to-purchase which in no way obligates purchaser, may be executed to assure availability of site during this approval procedure. All school sites shall be in agreement with the current school facilities plan except that a local board of education may request approval of the chief state school officer to acquire a school site in a rapidly growing area where the existing school cannot accommodate the increased student population and a new school may be proposed in a future facility plan by the Department of Education. However, no site preparation or construction shall take place prior to the time the proposed new school is a part of the facility plan. The site shall have the approval of the chief state school officer prior to initiation of an application for approval of a construction project.

Section 3. The minimum size of school sites shall be as follows:

(1) Elementary school: five (5) acres plus an additional acre for each 100 or fraction of 100 students of anticipated enrollment.

(2) Middle school, junior high school, and high school: ten (10) acres plus an additional acre for each 100 or fraction of 100 students of anticipated enrollment.

(3) Any deviation from subsections (1) and (2) of this section shall be made only after a site inspection and investigation of all other circumstances, including a certification of support by the local education agency and approval by the chief state school officer.

Section 4. Prior to contracting for the purchase of a school site, site expansion, or other real property, the local board of education shall follow the site selection process established in this section. The site selection process is a two (2) step approval process. A tentative approval allows the local district to pursue a site for further assurances and documentation which may lead to the approval to acquire the property.

(1) Using the requirements of this administrative regulation, the local district shall review proposed sites for location and site size.

(a) Location. The site shall be located within parameters established in the facility plan priority. A site not in the vicinity shall not be approved without written waiver by the chief state school officer.

(b) The minimum site size shall be:

1. Elementary school. Five (5) acres plus one (1) acre for each 100 or portion of 100 students projected for the school capacity;

2. Middle, junior, and high school. Ten (10) acres plus one (1) acre for each 100 or portion of 100 students projected for the school capacity. Consideration may be given to acquisition of adequate acreage to meet maximum capacity school size (elementary K-5/6: 600; middle/junior: 900; and high: 1500 students).

(2) The school district shall request a site review visit by the Division of Facilities Management of proposed site(s) and provide a city or county map locating proposed site(s) to the staff member upon their visit.

(3) A tentative approval or disapproval shall be given for each proposed sites(s).

(4) With tentative approval the district shall provide the following documentation to the Division of Facilities Management:

(a) Letter from attorney indicating fee simple title may be obtained. A fee simple title shall be received by local board in accordance with KRS 162.010 and certificate of title insurance provided. Should the mineral rights not be acquired, it shall require a forbearance agreement to ensure surface support.

(b) Plat by registered surveyor indicating property boundaries, acreage, road access, easements, and certification that property is above the 100-year flood plain. The property shall not have easements traversing the site. Easements are allowable along perimeter. Commitments to relocate easement from traversing site to perimeter shall be considered. Consideration may be given if filling of the site will bring building floor level and appurtenances above 100-year elevation.

(c) Letter from professional engineer and/or municipal government agency providing assurance of adequate site utilities to include the following:

1. Water. Adequate water supply for both domestic and fire suppression shall be available. This shall require both an adequate volume, flow and pressure.

2. Power. Adequate electrical service shall be available with normal voltages of 120V/240/v, and three (3) phase.

3. Natural gas. Access to natural gas is desirable but not required.

4. Sewage treatment. Either municipal sewer system shall be available or site shall be equipped with a package sewage treatment plant with the effluent piped to an acceptable blue-line stream. Distance from property line to stream and number of property owners with whom an easement shall be required to be negotiated shall be indicated.

(d) Letter from local government or state highway office confirming road adequacy shall be provided. The public road network servicing a site shall be adequate both in width and capacity to accommodate the projected bus and vehicular traffic for the proposed facility in addition to normal traffic while providing a safe and efficient access. This shall require consultation with either the local government road department or the Kentucky District Highway Office if access is by state highway.

(e) A letter from an architect or engineer relating to any potential environmental or safety hazards in the vicinity of the proposed site shall be provided. Within the vicinity of a selected site, there shall

not be any hazards to health or environment which are deemed so by state agencies having jurisdiction. Examples include: airport - landing/takeoff corridor, airborne particulates; hazardous waste site affecting runoff and aquifer; manufacturing concerns; sewage treatment/water purification; chlorine presence; subsurface faults; unstable high-wall conditions of surrounding grounds.

(f) Site survey of site development costs by architects or engineers and projected acquisition cost for the proposed site shall be provided. A cost analysis site survey, as requested by the Division of Facilities Management, shall include but not be limited to: mass site excavation, cost of bringing utilities to site and infrastructures, on-site roadway access (less paving), geotechnical survey (drilling a minimum of four (4) holes for subsurface conditions) with associated above normal footing requirements, any costs for hazardous condition cleanup, and acquisition cost. The site survey shall provide alternative locations or elevations of building as requested by the Kentucky Department of Education on the proposed site.

(g) Current assessed value and classification by property valuation administrator shall be provided.

(5) After evaluation of the submitted documentation, the chief state school officer shall issue an approval to acquire the property or disapprove the acquisition, except when approval is required by the State Board for Elementary and Secondary Education for site cost analysis survey and acquisition cost exceeding ten (10) percent of the maximum budget for the project.

(6) A disapproved site shall require the district to recommend another site for review as stated in subsection (1) of this section.

(7) The district shall submit a BG-1 application (3/84), hereby incorporated by reference, for the site purchase when funding source is capital outlay, special voted building funds, or a school revenue bond issue. The BG-1 application may be copied or obtained from the Division of Facilities Management, Department of Education, Room 1530, Capital Plaza Tower, 15 Mero Street, Frankfort, Kentucky 40601 from 8 a.m. to 4:30 p.m., Monday through Friday.

(8) Should the district seek reimbursement of site acquisition costs from School Facility Construction Commission funds, the executive director of the SFCC shall be contacted for an appraiser to be named.

(9) The district shall provide the Division of Facilities Management with a notarized copy of the executed deed and title insurance certificate within thirty (30) days after closing of property purchase.

Section 5. (1) A local board of education desiring approval of a site shall request such approval of the chief state school officer. If all assurances and requirements are in order and conform to the facility plan, except as noted in Section 2 of this administrative regulation, the chief state school officer may approve the site. If questions exist, the chief state school officer shall require the requesting school district to contract with an architectural or engineering firm licensed to operate in the Commonwealth of Kentucky. The firm designated by the chief state school officer shall be from a list approved by the State Board for Elementary and Secondary Education contracted to perform a study of the proposed site. This study shall include the following: estimated costs for site development including utilities to provide required infrastructures, necessary road access including traffic impact and analysis, geotechnical report including a soils analysis and requirements for soils compaction or special footing requirements, and any hazardous conditions. Cost of the study shall be borne by the requesting school district and shall be payable upon receipt and approval of same by the chief state school officer. The chief state school officer may waive the requirements for the study in expansions of existing school sites where proposed construction is not anticipated. The architectural or engineering firm conducting the study shall not be eligible to contract to design any construction activities for that priority project. Acquisition and site preparation costs of the local school board shall be ten (10) percent or less of the maximum budget for the project, unless authorized by the State Board for

Elementary and Secondary Education. Sites already owned by the school district that meet criteria of the facility plan shall be included in site approval requests and may be subject to the required study.

(2) Once a site has been designated an approvable site, the local board of education shall obtain a written option of sufficient duration approved by the chief state school officer on all approvable sites under consideration until final approval of a specific site has been made in writing by the chief state school officer.

(3) The local board of education shall certify to the chief state school officer that all reasonable sites within the approvable area have been reviewed and a decision has been made by the local board not to pursue acquisition of those sites. This certification shall list the sites reviewed and include reasons site was not acceptable. This shall be submitted to the Division of Facilities Management prior to approval of the final chosen site.

Section 6. A local board of education shall obtain title insurance, in an amount equal to the current appraised value of the property, from an acceptable title insurance company on property acquired for a school site in compliance with KRS 162.010. A copy of the title insurance shall be forwarded with a copy of the fee simple deed to the chief state school officer within sixty (60) days from the date of the deed.

Section 7. A permanent monument (four (4) by four (4) by eighteen (18) inches deep concrete with a brass pin) shall be set in the boundary line of the site at a point which will provide a starting point for initial and final plot of metes and bounds which will circumscribe the site. (1 Ky.R. 1046; 2 Ky.R. 242; eff. 10-8-1975; 4 Ky.R. 450; eff. 7-5-1978; 6 Ky.R. 498; eff. 5-7-1980; 11 Ky.R. 1160; eff. 3-12-1985; 16 Ky.R. 52; eff. 9-2-1989; 655; eff. 12-6-1989; 17 Ky.R. 2022; eff. 2-7-1991; 18 Ky.R. 2377; 2785; eff. 3-7-1992; Crt eff. 11-16-2018.)