

NEW AMERICA SCHOOL – NEW MEXICO
PERSONAL PROPERTY DISPOSITION POLICY

Disposition of obsolete, worn-out and unusable tangible personal property of the School, or property with a current resale value of five thousand dollars or less, shall be carried out in accordance with NMSA 13-6-1 et seq. and any applicable requirements of the State Auditor and NMPED. When disposition of property is desired, the Principal shall make a recommendation to the Governing Council detailing the property proposed for disposition and its per unit value, and the Council shall meet to consider the recommendation and shall determine whether the property meets applicable legal requirements for disposal or donation to another public entity or 501(c)(3) organization or not for profit organization. The Governing Council's determination that disposition is appropriate shall be in the form of the Resolution attached hereto as Exhibit A. A copy of the official finding and proposed disposition of the property sought to be disposed of shall be made a permanent part of the official minutes of the Governing Council and maintained as a public record subject to the New Mexico Inspection of Public Records Act.

Property disposed of by the School must be tangible personal property owned by the School that is worn out, unusable, or obsolete to the extent that the items described therein are no longer economical or safe for continued use by the School, or must be property that has a current resale value of five thousand dollars (\$5,000) or less. The resale value shall be determined by a personal property appraisal or other reasonable means of determining value.

The Governing Council shall approve and shall oversee the disposition of the property by designating a committee of at least three individuals, one of which must be a Council member, to approve and oversee the disposition of property. Prior to deleting the property from the School's public inventory, the committee shall give at least thirty days' notice of the Council's resolution and the proposed disposition of the property to the state auditor and the NMPED, pursuant to the procedures attached hereto as Exhibit B, or such other procedures as may be required by those entities. If, after thirty days after notice to the state auditor and NMPED there has been no action by the state auditor and/or NMPED to prohibit the disposition, the committee may proceed to dispose of the property in the manner set forth in the Council's resolution.

Property that has a resale value shall be disposed of by negotiated sale or donation to any entity described in NMSA 1978 §13-6-1(D). Any sale shall be accomplished by means of competitive sealed bid or public auction. If the committee is unable to dispose of the property by negotiated sale or donation to an entity described in NMSA 1978 §13-6-1(D), the committee may sell or, if the property has no value, donate the property to any organization described in Section 501(c)(3) of the Internal Revenue Code of 1996. If unable to sell or donate the property by either of these methods, the Governing Council may order that the property be destroyed or otherwise permanently disposed of in accordance with applicable laws.

All School data (if any) shall be permanently removed from the property prior to disposition, and the Governing Council shall certify that proper erasure or destruction of stored data has taken place or will take place prior to disposition. None of the property shall be donated to an employee or relative of an employee of the School or Governing Council, or to an employee or relative of an employee of a state agency, local public body, school district or state educational

institution, but nothing precludes an employee from participating in and bidding for public property at a public auction.

Tangible personal property of the School with a current resale value of more than five thousand dollars shall be made if the sale or disposition has been approved by the NMPED and in accordance with NMSA §13-6-2(D), unless the property is to be used as a trade-in or exchange pursuant to the New Mexico Procurement Code.

Exhibit A

**NEW AMERICA SCHOOL –NEW MEXICO
GOVERNING COUNCIL
RESOLUTION NO. _____**

Resolution Regarding Disposition of Tangible School Property

WHEREAS, the New America School Governing Council (“Council”), the governing body of the New America School – New Mexico, a public charter school (“School”), met in regular session at _____, Albuquerque, New Mexico on _____ 20__, at ___ p.m.; notice of the meeting was provided by law;

WHEREAS, the Council desires to authorize the disposal of [obsolete, worn-out and unusable tangible personal property of the School][School property having a current resale value of \$5,000 or less] in a manner conforming with NMSA 13-6-1 et seq. and requirements of the State Auditor/NMPED; and

WHEREAS, the Council has considered the tangible personal property set forth on Exhibit A hereto and has determined that that the property meets applicable legal requirements for sale/disposal/donation to [another public entity][501(c)(3) organization];

THEREFORE, BE IT RESOLVED that:

1. The property described on Exhibit A hereto is tangible personal property owned by the School that is [worn out, unusable, or obsolete to the extent that the items described therein are no longer economical or safe for continued use by the School];
2. The property described on Exhibit A has [no resale market value][a resale market value of less than \$5,000], as determined by _____;
3. The Governing Council approves and appoints the following committee to oversee the disposition of the property described in Exhibit A, pursuant to NMSA 1978 13-6-1(B)(1): _____;
4. All School data (if any) shall be permanently removed from the property described on Exhibit A prior to disposal, and the Governing Council signatures below certify that proper erasure or destruction of stored data has taken place or will take place prior to disposition;
5. The Governing Council authorizes the sale/donation of the property described in Exhibit A to the following entities or organizations; if these entities/organizations do not purchase/accept the property, the property may be destroyed or otherwise permanently disposed in accordance with law:
 - a.
 - b.
6. None of the property described on Exhibit A shall be donated to an employee or relative of an employee of the School or Governing Council, or to an employee or relative of a

- state agency, local public body, school district or state educational institution, but an employee may participate and bid for public property at a public auction;
7. This Resolution shall constitute the official finding of the Governing Council pursuant to NMSA 1978 13-6-1(B)(2), and the committee appointed herein shall notify the state auditor's office at least thirty (30) days prior to disposing of the property described in Exhibit A by sending a copy of this Resolution to the state auditor, duly sworn and subscribed under oath by each member of the Governing Council;
 8. At the same time as notification to the state auditor is given, the School shall submit a request for NMPED approval of the disposition, in the form(s) required by NMPED, if required by NMPED.
 9. After thirty days after notice is given to the state auditor and NMPED, no response has been received from the state auditor or NMPED, the committee may proceed to dispose of the items as set forth herein.
 10. A copy of this Resolution shall be made a permanent part of the official minutes of the Council and shall be maintained as a public record subject to the Inspection of Public Records Act.

The undersigned Secretary certified that he is the duly elected Secretary of the Council and that the above is a true and correct statement of the Resolution that was duly adopted at a meeting of the Council, which was held in accordance with State laws and bylaws of New America School-New Mexico's Governing Council.

The motion was duly made, seconded, and ___ voted in favor and ___ against; the motion carried.

President

Dated: _____

Secretary

Dated: _____

STATE OF NEW MEXICO)
) ss
COUNTY OF)

This instrument was acknowledged before me on _____, 2015 by _____ of _____.

NOTARY PUBLIC
(My commission expires: _____)

STATE OF NEW MEXICO)
) ss
COUNTY OF)

This instrument was acknowledged before me on _____, 2015 by
_____ of _____.

NOTARY PUBLIC
(My commission expires: _____)

STATE OF NEW MEXICO)
) ss
COUNTY OF)

This instrument was acknowledged before me on _____, 2015 by
_____ of _____.

NOTARY PUBLIC
(My commission expires: _____)

STATE OF NEW MEXICO)
) ss
COUNTY OF)

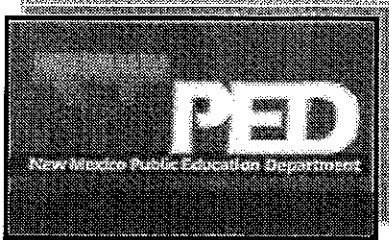
This instrument was acknowledged before me on _____, 2015 by
_____ of _____.

NOTARY PUBLIC
(My commission expires: _____)

STATE OF NEW MEXICO)
) ss
COUNTY OF)

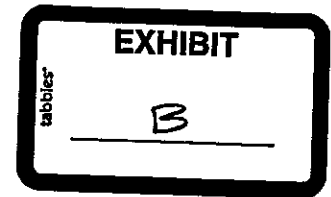
This instrument was acknowledged before me on _____, 2015 by
_____ of _____.

NOTARY PUBLIC
(My commission expires: _____)



Form PED-947

Request for Approval of Property Disposition



Submit one copy to:

Public Education Department
Jerry Apodaca Education Building
Capital Outlay Bureau
300 Don Gaspar, Room 121
Santa Fe, New Mexico 87501-2786

(No Other Type of Form will be Accepted)

The Board of Education/Governing Council of the _____ District/Charter School at its meeting of _____ on a motion made by _____ and seconded by _____, moved to request approval of the Public Education Department, as required by Section 13-6-2, NMSA 1978 for the following:

1) Type of Disposition:

- Sale, Trade, Exchange, or Gift of Land and/or Building(s)
- Sale of Building Trades Class Project
- Equipment or other Personal property
- Lease of Land and or Building(s)
 - Term in excess of 5, but less than 25 years. (Requires State Board of Finance approval in addition to PED approval)
 - Term less than 5, or more than 25 years
- Sale of Activity Buses/Vehicles
- Other, please explain briefly:

2) Reasons why the School Board or Governing Council is requesting permission to dispose of this property:

3) Proposed Method of Disposition:

- Public Auction
- Solicitation of sealed bids
- Negotiated

If negotiated, please explain the district's justification as to why a public or more competitive method was not used.

4) Provide a complete and detailed description of the property.

If more room is necessary, additional pages may be used to clearly explain the descriptions below:

Date of original acquisition:
(Approximate if you do not have the exact date)

Original Cost:

Current Resale or Market Value:

Description of equipment and/or Personal Property:

Year manufactured:

Model:

Serial Number:

Mileage:

Other Characteristics:

Federal Purchase: Yes No

(Refer to Section 12 of the Supplements to the Manual of Procedures
Public School Accounting and Budgeting.)

Legal Description of Real Property:_____

5) Estimated actual value of consideration to be received by the school district or charter school. This area should be completed for every request, regardless of the way payment is expected to be received.

Total (pick one)

Annual Lease Payment

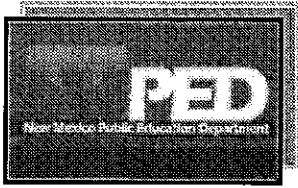
If this is to be an exchange/trade/gift/ please indicate to who, why, and other pertinent information so that value can be established.

Superintendent's Signature

Date

Prepared By

Phone #

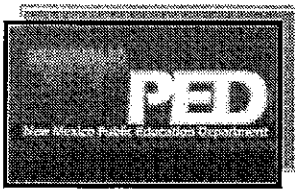


Sale, Lease, Trade, Exchange, or Gift of Personal and/or Real Property

District and Charter School Disposition Checklist

When PED approval is required a district or charter school must submit a request for PED approval (Form 947) that includes the following items:

✓	Required Documentation
	<p>One copy of the signed PED Form 947. That form will include responses to the following items:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Reason(s) for disposing the property <input type="checkbox"/> Proposed method of disposition (i.e., public auction or solicitation of proposals or sealed bids) <input type="checkbox"/> Complete description and specification regarding the condition of the Personal and/or Real Property <input type="checkbox"/> Intended use of the funds generated by this transaction <input type="checkbox"/> Value of the real property is more than \$5,000, but less than or equal to \$25,000 <input type="checkbox"/> Value of the personal property is more than \$5,000 <input type="checkbox"/> Term of the Lease is less than 5 years and consideration is less than \$25,000
	Provide a copy of any and all pertinent documentation (board/governing council minutes, resolutions, etc.) indicating that the proposed sale, lease, trade, exchange, or gift of Personal and/or Real Property has been approved by the local school board or governing council.
	Provide an appraisal and/or other documentation indicating the true market value of the Personal and/or Real Property and the consideration to be received. If more than one item of property is being disposed of, the value must be determined on each item. In instances where the school district or charter school is disposing the property to a non-government (state, local, or federal) entity, the value received must be comparable to the fair market value of the property to be disposed
	Provide a copy of the proposed quitclaim deed. Do not use warranty deeds.
	When Personal and/or Real Property are being leased, a market comparison of rentals for comparable property in the area must be included with the request. In instances where the school district or charter school is disposing of property to a non-governmental (state, local, or federal) entity, the value received must be comparable to the fair market value of the property to be disposed.
	Provide a copy of the proposed lease.
	If disposing of vehicles, provide a copy of the title.
	If the request is for permission to dispose of vehicles obtained from the Federal Property Assistance Bureau, written permission from the agency is required if less than 18 months from the date of purchase. For tractors and other heavy equipment, if less than 2 years from the date of purchase.
	Permission to dispose of buses/vehicles are handled like any other Personal Property item, with the following exceptions: PED Transportation Director permission is required whenever the disposition is of a bus/vehicle originally purchased with funds allocated to the district by the PED Transportation Unit and a trade-in/exchange for a replacement bus/vehicle does not need to go through this dispositions procedure
	Provide a copy of the proposed legal advertisement.



Request for Approval of Property Disposition

A district or charter school needs approval of property disposition.

Sale or Trade of Personal Property less than \$5,000

Sale, Lease, or Trade of all Personal Property above \$5,000 and any Real Property less than \$25,000.
Or, lease less than 5 years or lease payments less than \$25,000.

Sale, Lease, or Trade of only **Real Property** greater than \$25,000 or lease more than 5 years

Approval from the Office of the State Auditor (OSA)

Approval from the Public Education Department (PED)

Approval from the State Board of Finance (SBF)

- ◆ The school board or governing council must pass a "Resolution" explaining why it is disposing of the items.
- ◆ The district or charter school must send the resolution to the OSA with a letter explaining the district's or the school's intentions (must be done at least 30 days prior to the actual disposition).
- ◆ Contact OSA at (505) 476-3800 for additional requirements.
- ◆ Provide a copy of the OSA's approval letter to the PED.

- ◆ One copy of the PED form 947.
- ◆ Provide board or governing council minutes or resolution indicating it has approved of the proposed disposition and reason.
- ◆ Provide an appraisal indicating the true market value.
- ◆ Provide a copy of the quitclaim deed. Do not use warranty deeds.
- ◆ Provide a copy of the legal advertisement.
- ◆ Provide selection process used, purchase price, and sale agreement, if applicable.
- ◆ Provide a copy of the proposed lease
- ◆ Upon receipt of approval, provide the approval letter to OSA.

- ◆ The SBF, in its discretion, may require the same or additional information as PED that may be relevant to a specific transaction.
- ◆ SBF requires original and 10 copies of the package submitted to it.
- ◆ Complete packages must be submitted to the SBF on or before the its meeting deadline.
- ◆ Districts and charter schools should contact the SBF at (505) 827-4980 for specific requirements of the department.

OFFICE OF THE STATE AUDITOR (OSA)
PROPERTY DISPOSITION NOTIFICATION PROCEDURES

These are the OSA Property Disposition Notification review procedures and related guidance for agencies.

Review Section 13-6-1 through 13-6-5 NMSA 1978, and the following information to become familiar with how agencies must notify the State Auditor about the proposed disposition of property, and what methods of disposition are permitted under New Mexico law.

- Note that pursuant to Section 13-6-4, NMSA 1978, municipalities are not required to notify the State Auditor when they dispose of property.
- Note that Section 33-2-5 NMSA 1978 is the specific statute that applies to Department of Corrections' (DOC's) property dispositions. The requirement to submit a notification to the OSA regarding such dispositions is the only portion of Section 13-6-1 NMSA 1978 that applies to DOC.
- The Office of the State Auditor's interpretation of Subsection A of Section 13-6-1, NMSA 1978, has been that if an agency is going to dispose of tangible personal property on the capital asset list ("public inventory" per Subsection A of Section 13-6-1, NMSA 1978) then the agency should notify the State Auditor regarding the proposed disposition as required by Section 13-6-1 NMSA 1978. If the item(s) to be disposed of are not on the agency's capital asset list (because they did not meet the capitalization threshold at the time they were purchased) then the agency should simply follow the agency's policies and procedures with regard to disposing of those items.
- Sometimes local governments decide they want to donate used equipment to governments in Mexico. The Office has a letter from the AG stating that the statutes do not allow agencies to donate property to entities outside the State of New Mexico.
- Section 2.2.2.10(T) NMAC (the Audit Rule 2015) requires that agencies and local governments disposing of any digital equipment with storage capabilities should take care to properly erase stored data prior to the intended disposition. Agencies subject to the notification requirement of Section 13-6-1(B) NMSA 1978, must certify in writing the proper erasure or destruction of the hard drive and submit the written certification along with the notification of the proposed disposition of property, to the State Auditor at least 30 days prior to taking action to dispose of the asset.

Property disposition notification letters should be sent to: Tim Keller, State Auditor, Office of the State Auditor, 2540 Camino Edward Ortiz, Suite A, Santa Fe, NM 87507. The letter should be submitted to the OSA at least 30 days prior to the intended disposition action and include the following information:

- (1) Signatures of the committee members approving the disposition prior to the disposition action (or a copy of the board minutes showing that the governing board approved the disposition);
- (2) The method by which the agency intends to dispose of the property (the method must be an allowable method per the applicable statute);
- (3) A written certification by the agency that the hard drives of all digital equipment with storage capabilities have been erased (or destroyed) or will be erased or destroyed; and
- (4) A list of the items to be disposed of.

If the agency's notification letter includes the four items listed above (that apply to the specific disposition) and the items meet the related requirements, then the OSA files the notification letter, and the agency receives no response from the OSA. But if the agency's notification letter is missing any of the four required elements listed above, or indicates that the agency did not comply with the notification requirement, then the OSA will write a deficiency letter to the agency requesting an addendum to the original notification letter, providing the OSA with the additional required information, or informing the agency regarding the noncompliance.

Sometimes agency notification letters that the OSA receives indicate that the agency is waiting for an "approval from the state auditor" regarding their intended property disposition. The Office is not authorized or required by the statute to give approval of an agency's proposed property disposition. The Office simply reviews the property disposition notifications for completeness and compliance with the applicable statutes.

If the OSA notes during the review of a property disposition letter, evidence of any of the following instances of noncompliance, the OSA will send a copy of the agency's deficiency letter to the agency's external auditor.

- (1) The agency disposed of the property prior to the approval of the agency's disposition oversight committee.
- (2) The agency disposed of the property prior to submitting the disposition notification letter to the OSA (except for lost items and trade-ins).
- (3) The agency did not submit the property disposition notification letter to the OSA at least 30 days prior to the planned disposition.
- (4) The agency disposed of property by a method that is not permitted by the statutes (Sections 13-6-1 or 13-6-2 NMSA 1978).

These procedures are meant for information purposes only, and should not be construed as legal advice. If an agency has questions about whether specific intended property dispositions are in compliance with the statutes, the agency should consult the agency's legal counsel.