

CHAPTER 35**DISPOSITION OF SURPLUS REAL AND PERSONAL
PROPERTY OF THE NEW JERSEY SCHOOLS
DEVELOPMENT AUTHORITY****Authority**

P.L. 2007, c.137, specifically §§4f, 4l and 4k.

Source and Effective Date

R.2007 d.312, effective October 15, 2007.
See: 39 N.J.R. 1647(a), 39 N.J.R. 4443(b).

Chapter Expiration Date

Chapter 35, Disposition of Surplus Real and Personal Property of the New Jersey Schools Development Authority, expires on October 15, 2012.

Chapter Historical Note

Unless otherwise expressly noted, all provisions of Subchapter 1 were adopted pursuant to authority of N.J.S.A. 48:23-1 et seq. and were filed and became effective May 6, 1975, as R.1975 d.118. See: 7 N.J.R. 285(a).

Chapter 35, FM Radio Stations, expired on July 1, 2006.

Chapter 35, Disposition of Surplus Real and Personal Property of the New Jersey Schools Development Authority, was adopted as new rules by R.2007 d.312, effective October 15, 2007. See: Source and Effective Date.

CHAPTER TABLE OF CONTENTS**SUBCHAPTER 1. GENERAL PROVISIONS**

- 19:35-1.1 Applicability
- 19:35-1.2 Definitions
- 19:35-1.3 Purpose and scope

SUBCHAPTER 2. DISPOSITION OF SURPLUS PROPERTY

- 19:35-2.1 Determination of property as surplus property
- 19:35-2.2 Manner of property disposition
- 19:35-2.3 Procedures for disposition of surplus property
- 19:35-2.4 Contract execution and implementation
- 19:35-2.5 Waiver of public advertisement

**SUBCHAPTER 3. USE AND/OR OCCUPANCY OF
PROPERTY**

- 19:35-3.1 Third-party use and/or occupancy of real property

SUBCHAPTER 1. GENERAL PROVISIONS**19:35-1.1 Applicability**

This chapter applies to the sale, lease, grant of easement, license or other use or disposition by the New Jersey Schools Development Authority (SDA) of any real or personal property owned by the SDA or in which the SDA has a legal interest. No disposition of property proposed to be undertaken in accordance with this chapter shall be authorized or enforceable if it would violate the tax-exempt status of the inter-

est paid on bonds sold to finance said property, pursuant to the United States Internal Revenue Code of 1986, 26 U.S.C. §§1 et seq., as amended from time to time, and all Federal Department of the Treasury regulations, revenue procedures and revenue rulings issued pursuant thereto.

19:35-1.2 Definitions

The following words and items, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

“Act” means the Educational Facilities Construction and Financing Act, P.L. 2000, c. 72, and P.L. 2007 c. 137.

“Authority” or “SDA” means the New Jersey Schools Development Authority established, pursuant to section 3 of P.L. 2007, c. 137, the successor entity to the New Jersey Schools Construction Corporation.

“Board” means the members of the Authority.

“Contract” means the entire and integrated agreement between an individual or firm and the Authority, in such form as is required by the transaction for the disposition of the surplus property.

“Department” means the New Jersey Department of Education.

“Disposition” or “dispose” means the sale, lease, grant of easement, license or other transfer of SDA’s legal rights in and/or to any real or personal property.

“Estimated market value” means the value of the personal property established by its book value or other valuation methodology appropriate to the type of personal property being valued.

“Fair market value” means that amount of compensation a disposition of SDA real property would command in a competitive market between a willing seller and buyer under the same terms and conditions of the transaction, as determined by one or more appraisals that take into account relevant factors and conditions impacting upon the highest and best use of the subject property. Compensation may, in whole or in part, take the form of money, exchanged property, contractual commitments, acts of forbearance or such other conditions, as are deemed by the SDA to be of the greatest value to the school construction program.

“Firm” means any association, company, contractor, corporation, joint stock company, limited liability company, partnership, sole proprietorship, or other business entity, including its successors, assignees, lessees, receivers or trustees.

“Nonpublic party” means a private individual or firm that is eligible to enter into an agreement or otherwise contract with the SDA for the disposition of property.

“Operating Authority” means the Authority’s designation of individual directors, officers, employees or combinations thereof who are authorized, either generally or in specific transactions, to approve contracts and to execute documents legally binding on the Authority, or sign checks and disbursements on behalf of the Authority, and which can found on the Authority’s website at www.njsda.gov.

“Personal property” means furnishings, equipment, computers, temporary classroom units, automobiles, and any other tangible or intangible property owned by the SDA, with the exception of real property.

“Property” means real property and personal property, either individually or in combination.

“Public party” means the State or any political subdivision of the State or any agency or subsidiary thereof.

“Real property” means any land in which title is held by the Authority, or in which the SDA has a legal interest, whether improved or unimproved, and includes structures, fixtures, appurtenances and other permanent improvements, excluding moveable machinery and equipment.

“School construction program” means the overall program mandated by the Act for the design, renovation, repair and new construction of early childhood, primary and secondary public schools throughout the State, through the implementation of school facilities projects.

“School facilities project” means the planning, acquisition, demolition, construction, improvement, alteration, modernization, renovation, reconstruction or capital maintenance of all or any part of a school facility or of any other personal property necessary for, or ancillary to, any school facility, and shall include fixtures, furnishings and equipment. School facilities project shall also include, but is not limited to, site acquisition, site development, the services of design professionals, such as engineers and architects, construction management, legal services, financing costs and administrative costs and expenses incurred in connection with the project.

“Surplus property” means real and personal property that, pursuant to N.J.A.C. 19:35-2.1, has been determined not to be necessary, on a temporary or permanent basis, for the undertaking or management of a school facilities project and not used or useful in the business operations of the SDA.

“Surplus temporary classroom unit” means a TCU owned by the SDA, which has been deemed to be surplus property.

“Temporary classroom unit or “TCU” is an educational unit comprised of one or more trailers joined together, title to which is held by the SDA, which was approved by the Department of Education, Office of School Facilities, after July 18, 2000, as a temporary facility necessary to advance a school facilities project until the substantial completion of that school facilities project.

“Use and/or occupancy agreement” means an agreement between the SDA and a public or nonpublic party providing for the use and/or occupancy of all or any part of surplus real property, but does not serve to transfer ownership to such party.

19:35-1.3 Purpose and scope

The purpose of this chapter is to establish and prescribe uniform rules and procedures for the sale, lease, or other use or disposition of surplus real and personal property by the Authority at its estimated or fair market value, as applicable, or its transfer or disposal at the least possible cost. Proceeds from the disposition of property shall be used to fund school facilities projects. No property disposition shall be made by the Authority except in accordance with this subchapter.

SUBCHAPTER 2. DISPOSITION OF SURPLUS PROPERTY

19:35-2.1 Determination of property as surplus property

(a) Whenever the SDA’s Chief Executive Officer, or his or her designee, determines that property is surplus property, in accordance with (b) or (c) below, such property shall be disposed of in the manner and upon the terms and conditions set forth in this subchapter and approved in accordance with the Operating Authority.

(b) In the case of personal property, the determination that the property is surplus shall be based upon the following considerations:

1. The purpose for, and the cost at which, the property was originally acquired, and the cost and nature of any improvements;
2. The date when, and the circumstances under which, it ceased to be useful for its original purpose;
3. The present use and the possible prospective use(s), if any; and
4. The property’s estimated market value.

(c) In the case of real property, the determination that the property is surplus shall be based upon the following considerations:

1. The information pursuant to (b)1 through 3 above; and
2. If the property is income producing, its assessed valuation and details concerning the expenses of the property, such as carrying charges and taxes.