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## Disposition of Surplus Property in the Education Department

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other e-Li material.

Sincerely,

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## Table of Contents

Disposition of Surplus Property in the Education Department .....	3
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## Disposition of Surplus Property in the Education Department

**Reference Number:** CTAS-941

The decision to sell surplus property in the education department generally is a decision of the board of education. The board of education has the power to dispose of real property titled in its name, as provided in T.C.A. § 49-6-2006. With respect to personal property of the education department declared surplus by the board of education, T.C.A. § 49-6-2007 requires newspaper advertisement and competitive bidding for items valued at \$500 or more.

The board of education has the power to lease or sell buildings and property or the portions of buildings or property it determines are not being used or are not needed by the public school system in the manner deemed by the board to be in the best interest of the school system and the community that the system serves, under T.C.A. § 49-2-203(b)(10). That statute also provides that a local board of education may dispose of surplus property under T.C.A. §§ 49-6-2006 and 49-6-2007, it being the stated legislative intent that a local board at its discretion may dispose of surplus property to private owners as well as civic or community groups.

Under T.C.A. § 49-6-2006(c), the board of education may dispose of property upon which it has constructed a building under its vocational education program by public sale or negotiated contract, notwithstanding the provisions of any other law to the contrary.

Under T.C.A. § 49-6-2006(d), the board of education may elect to transfer surplus real or personal property to the county or to any municipality within the county for public use, without the requirement of competitive bidding or sale.

Under T.C.A. § 49-6-2007(f), the board may donate computers that have been removed from inventory in its schools to low-income families in the school district, or they may dispose of computers by selling or trading them to computer vendors or manufacturers as part of the proposal to purchase new computers for the LEA.

School systems dispose of their surplus textbooks under T.C.A. § 49-6-2208, which provides for sale by public auction, sealed bids, internet auction, or negotiated contract for sale (by reference to T.C.A. § 12-2-403(a)(1)-(4)), or by other methods that are approved by the local board of education.

In counties that have adopted the County Financial Management System of 1981, it is the duty of the county purchasing agent under T.C.A. § 5-21-118(b) to conduct public sales of school real and personal property when the board of education declares the property surplus and determines that the property should be sold. See *Op. Tenn. Att'y Gen.* 13-84 (October 31, 2013). The purchasing agent should conduct such sales of personal property in accordance with T.C.A. § 49-6-2007, and public sales of real property according to the direction of the board of education.

In counties that have elected to be governed by the County Purchasing Law of 1957 and where schools are included, the provisions of T.C.A. §§ 49-6-2006 and 49-6-2007 must be read in conjunction with the provisions of T.C.A. § 5-14-108 (o). The statutes should be read together and harmonized to the extent possible. To the extent that these statutes are in direct conflict, however, the provisions of T.C.A. § 5-14-108 should be followed.

Following is an example of how the disposition of surplus property in a school system under the provisions of the County Purchasing Law of 1957 or the County Financial Management System of 1981 might flow (note that this is an example only):

Sample Steps:

1. The school board declares the property surplus and decides whether to sell the property at public auction or sealed bid, or whether to transfer the property to another governmental entity as authorized in T.C.A. § 49-6-2006.
  2. If the school board decides to hold a public auction or public sale, the purchasing agent advertises a public sale in the newspaper at least seven days prior to the sale. T.C.A. § 49-6-2007(b).
  3. The purchasing agent holds the sale as advertised and sells the items on behalf of the school board.
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