



REAL PROPERTY ACQUISITIONS FOR COLLEGE USE OR THE JOINT USE OF COLLEGE FACILITIES

It is the purpose of the community and technical college system to offer thoroughly comprehensive programs that meet community and student needs through academic courses, occupational education and community services of an educational, cultural and recreational nature. The state and local boards administer the system in a manner that will encourage efficiency in operation and creativity and imagination in education, training and service to meet the needs of the community and students.

In [RCW 28B.50.140 \(4\)](#), the Community and Technical College Act provides that college boards of trustees under the approval and direction of the State Board may establish new facilities as community needs and interests demand, and may receive gifts of real property. The State Board is empowered to establish and administer criteria and procedures for the installation and expansion of all community and technical college facilities under [RCW 28B.50.090 \(8\)](#).

Although each college board has authority to receive and dispose of gifts of real and personal property without State Board involvement in [RCW 28B.50.140 \(8\)](#), the use of such property for college purposes involving capital construction and expansion of facilities requires State Board approval under [RCW 28B.50.090 \(8\)](#). Similarly, the State Board approves all rentals or leases of facilities, whether for college use or for use of college facilities by non-college agencies.

- A. **Goals:** The community and technical college system has found itself unable to acquire sufficient capital funds to meet its needs. In order for the State Board to carry out its responsibilities, and to support the district boards of trustees in carrying out the purposes of the community and technical college system as set forth in [RCW 28B.50](#) innovative means must be used to provide capital resources. Therefore, the State Board will:
 1. Consider proposals from district boards of trustees for the receipt and use of gifts of real property including capital facilities for college purposes or for the joint use of college facilities,
 2. Inform the appropriate state-level agencies of its intent to consider such proposals,
 3. Approve such proposals as it may find to be consistent with state law and regulations,
 4. Ensure proposed actions are in the best interests of the colleges, the community, the community and technical college system and the state, and
 5. Ensure acquisitions are consistent with policies and practices of the State Treasurer.
- B. **Process:** The State Board will consider proposals brought to it by district boards of trustees on a case-by-case basis. In addition to the request of a local board and the recommendation of the State Director, the State Board will consider information and findings provided by the

local board as required to make the proposal. Based on its analysis of those findings, the Board will determine its conclusions. Based on its conclusions, the Board will act to approve or disapprove the proposal or it may suggest modifications to the proposal as would allow the State Board to grant approval.

C. Findings:

1. The appropriateness of the facility or activity, its uses and its users, for the requesting college will be evaluated against the following criteria:
 - a. The facility or activity should relate to the role, mission and purpose of the community and technical college system and the local college.
 - b. Program needs of importance to the college should be met by the proposed facility or activity.
 - c. The proposal should relate well to the strategic plan of the college.
 - d. The proposal should relate well to the master plan of the college.
 - e. The proposed uses of the facility or the means of accommodating the proposed activity should be clearly defined.
 - f. Those who would occupy or use the facility or take part in the proposed activity should be identified.
 - g. Alternatives that have been considered and investigated for meeting the college needs in other ways should be described, including the rationale for not pursuing the alternatives in preference to the proposal.
2. The appropriateness of the proposed facility or activity for the community will be evaluated against the following criteria:
 - a. Community needs of importance would be met under the proposal.
 - b. The nature of community support for the proposal is sufficient and has been appropriately identified and measured.
 - c. The effect of the proposal on the local tax base, existing private or public enterprises or organizations in the community, and potential future enterprises or organizations has been realistically evaluated and reported.
3. The benefits and obligations of the college (the state) under this proposal will be evaluated against the following criteria:
 - a. Contracts, agreements or other documentation that define the terms of this proposal are available for review.
 - b. The ongoing obligations of the college (the state) under this proposal have been identified, and means for meeting those obligations have been verified.
 - c. The annual expenditures that would be required of the college and the source(s) from

which the college would acquire the funds necessary to make those expenditures have been identified and dedicated to this purpose.

- d. The control of the college (the state) over the proposed facility or activity has been identified with respect to:
 - i. Types of use,
 - ii. Hours of use,
 - iii. Types of users,
 - iv. Characteristics of operation,
 - v. Standards of maintenance,
 - vi. Determination of need for repair or renovation,
 - vii. Decisions about reuse and/or reconfiguration of the facility for the duration of the terms of the proposal, and
 - e. Meeting of codes and desired quality levels of design, specification and construction within the terms of the acquisition/development.
4. For any improvement to be constructed on state owned property by an entity other than the college for subsequent donation to or for use by the college, the following are required:
- a. The constructing entity and the college will agree on their respective limits of liability in the design and construction process.
 - b. A ground lease will be executed by the State Board for state owned property assigned to the foundation or third party for the purpose of making capital improvements.
 - c. All applicable codes will be met.
 - d. Ten percent of maximum allowable construction costs (MACC) will be withheld for any claims.
 - e. Prevailing wage rates will be paid.
 - f. A performance bond shall be required, if deemed necessary, by the Executive Director and the office of the Attorney General.
 - g. Any transfer of title to the college shall be free and clear of all encumbrances.
 - h. The college will establish the program specifications of the facility.
 - i. The college will assure that the gift improvements are consistent with the campus master plan.
5. The financial or programmatic advantages that would be gained by the college (the state) have been identified.

- a. The duration of any agreement involving facility usage or responsibility has been identified.
 - b. The process has been described by which the college has proceeded to develop this proposal in order to be assured that the most advantageous terms possible are included in the agreement, including such means as requesting proposals, holding public hearings and seeking expert financial and legal counsel.
 - c. The means by which the proposal limits the risks of the college (the state) for liability and other loss, such as insurance coverage, performance bonds and shared costs of operation and maintenance have been identified.
 - d. The financial responsibility of the parties to the proposal has been considered.
- D. **Conclusions:** The SBCTC will analyze its findings concerning the above criteria in light of state law and regulations, the role/mission/purpose of the community and technical college system and the requesting institution, and the apparent best interests of the college, the community, the system and the state. Acceptability of the general proposal will be evaluated by the SBCTC in light of the conclusions reached by the Board including but not limited to the following factors:
1. The program justification and benefit of the proposal to the college.
 2. The costs and obligations of the college and the state, and how they relate to the benefits of the proposal for the college and the state.
 3. The importance of the benefits of this proposal and the meeting of these needs, compared to the general operations of the institution and the full spectrum of needs or services that could or should be provided.
 4. The realistic alternatives that exist for meeting these needs, and why should this proposal not be deferred in favor of any of those alternatives.
 5. The information has been provided to state-level agencies concerning this proposal, and the responses that have been received from those agencies.
 6. The best interests of the college, the community, the community and technical college system, the state.
 7. The project financing does not violate the policies and practices of the State Treasurer.
 8. Other relevant factors as may be identified by the State Board.
- E. **Final Approval:** Following its evaluation of acceptability, the State Board will consider an action to approve, approve with modifications, or disapprove the proposal