

## MEMORANDUM

To: School Corporations, Charter Schools, and Non-Public Schools

From: Marsha Bugalla, General Counsel

Date: June 21, 2019

Re: House Enrolled Act 1641 – Unused Buildings (1 of 2)

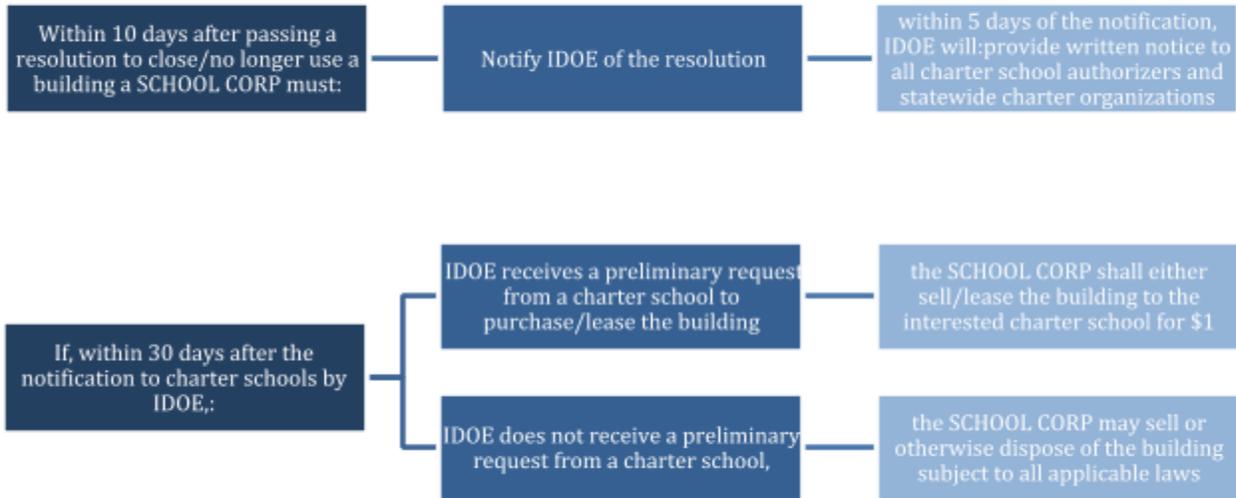
### **Background:**

Beginning in 2005, the Indiana General Assembly (IGA) enacted a statutory provision whereby public school corporations were required to offer school buildings no longer being used for classroom instruction to charter schools for purchase or lease, subject to the requirements of IC 20-26-7-1. Over the past 13 years, the Indiana Department of Education (IDOE) has administered this program, acting as a conduit between public school corporations and interested charter schools. IDOE has maintained all documents and forms relevant to this process which can be found [here](#).

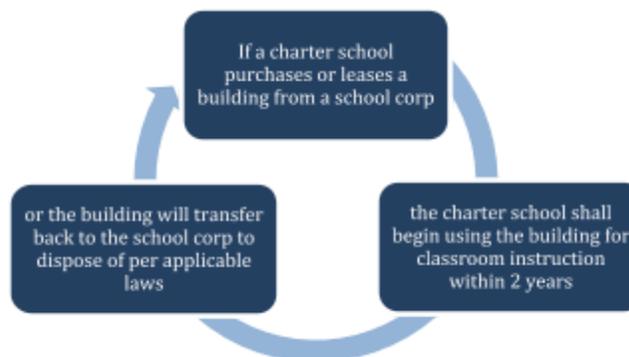
### **Guidance:**

In House Enrolled Act (HEA) 1641 the IGA has reworked the requirements governing IC 20-26-7-1 (the “Unused Building Statute”). There are several changes to the timeline by which school corporations and IDOE must act under the statute. School corporations must now inform the IDOE not later than 10 days after passing a resolution to close, no longer use, or no longer occupy a school building previously used for classroom instruction. The school corporation must also make the building available for inspection by an interested charter school. Within five days of notification, IDOE will provide written notice to all charter school authorizers and statewide charter organizations of the available building. If, within thirty days of its notification, a charter school submits a preliminary request to purchase or lease the building to IDOE, along with all required documentation, the public school corporation shall either sell or lease the building to the interested charter school for \$1. If IDOE does not receive a preliminary request, the school corporation may sell or otherwise dispose of the building subject to all applicable laws and regulations.

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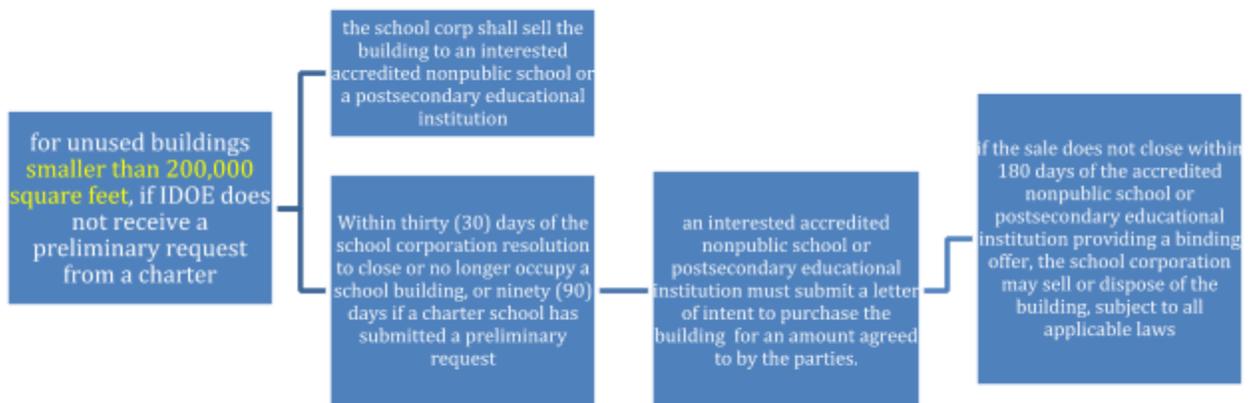


In the event that two or more interested charters submit a preliminary request, an authorizer committee shall be established, comprised of all statewide charter authorizers that have authorized at least one charter school in the state. The committee shall then apply certain statutory priorities and decide which charter school may proceed with the purchase or lease of the building. The committee may also determine that two or more charter schools should co-locate in the building. A charter school that purchases or leases a building under this chapter shall begin using the building for classroom instruction within two years of acquisition or the building will revert back to the school corporation which may sell or dispose of the building subject to applicable law. Further, if the charter school sells or otherwise transfers the building, they must transfer the amount of gain made on the sale back to the school corporation that initially sold them the building.



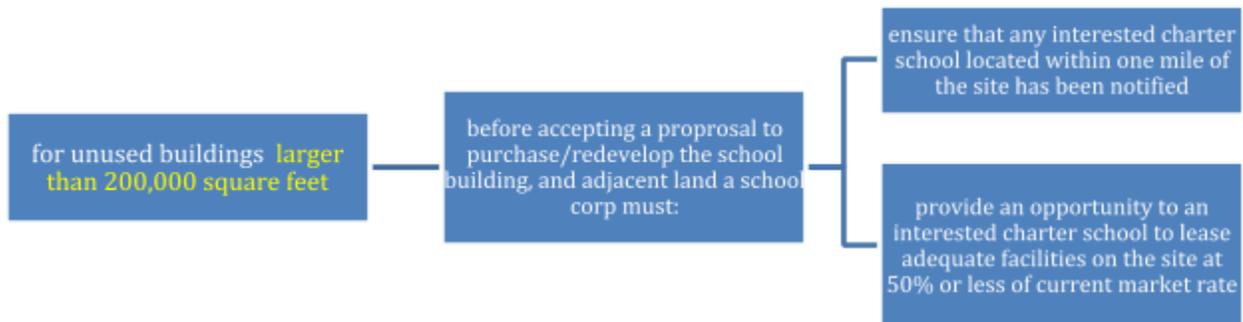
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Additionally, HEA 1641 creates a potential opportunity for accredited nonpublic schools and postsecondary educational institutions to purchase unused school buildings. For unused buildings smaller than 200,000 square feet, if IDOE does not receive any preliminary requests from charter schools, the school corporation shall sell the building to an interested accredited nonpublic school or a postsecondary educational institution, subject to the statutory requirements. Within 30 days of the school corporation resolution to close or no longer occupy a school building, or 90 days if a charter school has submitted a preliminary request, an interested accredited nonpublic school or postsecondary educational institution must submit a letter of intent to purchase the building for an amount agreed to by both parties or as dictated in IC 36-1-11. If the sale of the property does not close within 180 days of the accredited nonpublic school or postsecondary educational institution providing a binding offer, and the delay is not caused by the school corporation, the school corporation may sell or dispose of the building, subject to all applicable laws and regulations.



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Finally, under HEA 1641, certain additional requirements must be satisfied before a building larger than 200,000 square feet may sold and/or redeveloped. Before accepting a proposal to purchase and redevelop the school building and adjacent property, a school corporation must ensure that any interested charter school located within one mile of the site to be redeveloped has been notified and provided with an opportunity to lease adequate facilities on the redeveloped site at 50 percent or less of the current market rate for the property, or at a rate agreed to by the parties.



If you have any questions, please contact Andrew Bernlohr at 317-233-0013 or e-mail at [abernlohr@doe.in.gov](mailto:abernlohr@doe.in.gov).

This bill was authored by Representative Bob Behning. The full bill text can be found [here](#). Information regarding how to contact your legislators can be found [here](#).