



EDUCATIONAL FACILITIES FREEDOM ACT

Summary: Local governments often prevent private or charter schools from buying or renting vacant school buildings, harming students by limiting their access to education. This model policy addresses this problem by prohibiting local governments from adopting ordinances or imposing deed restrictions that prevent private or charter schools from buying or renting vacant school buildings from a local government. If a local government violates the terms of this policy, a private or charter school may file a lawsuit to compel compliance, and may recover court costs and attorney fees if successful.

Section 1: Short Title

This Act shall be known and cited as the “Educational Facilities Freedom Act.”

Section 2: Definitions

For the purposes of this Act:

- (a) “Public educational institution” means any of the following: (i) a school district, charter school or other public school; and (ii) a state or community college.
- (b) “Local governmental body” means any state or local government or its subdivision, including, but not limited to, a city, village, township, county, or educational institution; a local public authority, agency, board, commission, or other local governmental, quasi-governmental, or quasi-public body; or a public body that acts or purports to act in a commercial, business, economic development, or similar capacity for a local government or its subdivision.
- (c) “Private school” means a private, denominational, or parochial school.



Section 3: Limitation on Local Governmental Powers

- (a) Except as otherwise provided in this subsection, a local governmental body shall not adopt, enforce, impose, or administer an ordinance, local policy, or local resolution that prohibits property sold, leased, or transferred by the local governmental body from being used for any lawful educational purpose by a public educational institution or private school.
- (b) This section shall not apply to a generally applicable zoning ordinance properly adopted by the local governmental body.

Section 4: Deed Restrictions

- (a) A local governmental body shall not create, impose, enforce, or apply any deed restriction that expressly or by its operation prohibits property sold, leased, or transferred by the local governmental body from being used for any lawful educational purpose by an educational institution or private school.
- (b) Any deed restriction or affirmative-use deed restriction that allows for only one or more specified uses or purposes which do not include an educational use or purpose is prohibited under this subsection.
- (c) Any deed restriction or affirmative-use deed restriction in effect on the effective date of this act that prohibits property previously used for an educational purpose from being used for any future educational purpose is void.

Section 5: Sale, Lease, or Rent for Lawful Educational Purpose

- (a) If a local governmental body offers property for sale, lease, or rent, it shall be unlawful for that local government body to refuse to sell, lease, or rent the property to any prospective buyer because that prospective buyer, lessee, or renter intends to use the property for a lawful educational purpose.



Section 6: Noncompliance and Remedies

- (a) If a local governmental body does not comply with this act, the attorney general, prosecuting attorney of the county in which the local governmental body serves, or educational institution or private school aggrieved by the local governmental body may commence a civil action to compel compliance or to enjoin further noncompliance with this act.

- (b) An action for injunctive relief against a local governmental body must be commenced in a court with jurisdiction over injunctive actions, with venue in any county in which the local governmental body serves. If an educational institution or private school commences an action for injunctive relief, they are not required to post security as a condition for obtaining a preliminary injunction or a temporary restraining order.

- (c) If an educational institution or private school commences a civil action against the local governmental body for injunctive relief and succeeds in obtaining relief, they may recover court costs and reasonable attorney fees incurred in the action.

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