

SALE OF LEASE OF DISTRICT-OWNED REAL PROPERTY

The Board of Education believes that the district ~~should utilize its facilities and resources~~ **should be utilized in the most an economical and practical manner.** The Superintendent or designee shall periodically study the current and projected use of all ~~D~~district facilities to ensure the efficient utilization of space and the effective delivery of instruction.

(cf. 1330 - Use of School Facilities)

(cf. 7110 - Facilities Master Plan)

(cf. 7111 - Evaluating Existing Buildings)

(cf. 7160 - Charter School Facilities)

~~Upon determination that District property is no longer needed or may not be needed until some future time, the Board shall offer to sell or lease District owned real property in accordance with priorities and procedures specified in law, including, but not limited to, Education Code 17230, 17464, 17485-17500, and Government Code 54222.~~

~~*(cf. 5148 - Child Care and Development)*~~

~~*(cf. 5148.2 - Before/After School Programs)*~~

~~*(cf. 5148.3 - Preschool/Early Childhood Education)*~~

Prior to the sale or lease of any surplus real property, the Board shall appoint a district advisory committee to advise the Board regarding the use or disposition of schools or school building space which is not needed for school purposes. **The Board may elect not to appoint a district advisory committee for any of the following:** (Education Code 17388, 17391)

- 1. A rental of property for a period of time not exceeding 30 days.**
- 2. A lease or rental of surplus property to a private educational institution for the purpose of offering summer school.**
- 3. A sale, lease, or rental of surplus property to be used for teacher or other housing.**
- 4. Until July 1, 2024, a sale or lease of surplus property that has not previously operated, or was not constructed to be operated, as an early childhood education facility or a school for elementary or secondary instruction.**

(cf. 1220 - Citizen Advisory Committees)

In addition, to ensure that the proposed disposition of the property conforms with any general plan adopted by the local planning agency that affects or includes the area where the surplus property is located, the Board shall submit a report to the local planning agency describing the location of the surplus property and the purpose and extent of the proposed sale or lease. (Government Code 65402)

The Board shall determine whether the sale or lease of the surplus property is subject to review under the California Environmental Quality Act. (Public Resources Code 21000-21177; 14 CCR

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15061-15062)

The Board may meet in closed session with its real property negotiator prior to the sale or lease of real property by the district in order to grant its negotiator authority regarding the minimum price or rent and terms of the sale or lease. (Government Code 54956.8)

(cf. 9321 – Closed Session)

When selling or leasing district real property, the Board shall comply with applicable procedures and give priority to specified public agencies as required by law. (Education Code 17230, 17464, 17485-17499; Government Code 54222)

(cf. 5148 – Child Care and Development)

(cf. 5148.2 – Before/After School Programs)

(cf. 5148.3 – Preschool/Early Childhood Education)

Resolution of Intention to Sell or Lease

Before ordering the sale or lease of any real property, the Board shall adopt a resolution by a two-thirds vote of all of its members at a regularly **scheduled meeting**, ~~open meeting~~. The resolution shall describe the property proposed to be sold or leased in such a manner as to identify it, specify the minimum price or rent, describe the terms upon which it will be sold or leased, and specify the commission or rate, if any, which the Board will pay to a licensed real estate broker out of the minimum price or rent. The resolution shall fix a time, not less than three weeks thereafter, for a public meeting, held at the Board's regular meeting place, at which sealed proposals to purchase or lease will be received and considered. (Education Code 17466)

(cf. 9320 – Meetings and Notices)

(cf. 9323.2 - Actions by the Board)

The Superintendent or designee shall provide notice of the adoption of the resolution and of the time and place of the meeting **that will be held to consider bids** by posting copies of the resolution, signed by the Board, in three public places not less than 15 days before the date of the meeting. In addition, the notice shall be published at least once a week for three successive weeks before the meeting, in a newspaper of general circulation published in the county in which the district is located, if such a paper exists. (Education Code 17469) ~~In addition, this information will also be posted to the District's website.~~

~~The Superintendent or designee shall take reasonable steps to provide notification to the former owners of the property of the District's intent to sell it in accordance with Education Code 17470.~~

At least 60 days prior to the public meeting, the Superintendent or designee shall take reasonable steps to provide written notification of the public meeting, by certified mail, to the former owner from whom the district acquired the property. (Education Code 17470)

Acceptance / Rejection of Bids

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At the public meeting specified in the resolution of intention to sell or lease property, the Board shall open, examine, and declare all sealed bids. Before accepting any written proposal, the Board shall call for oral bids in accordance with law. (Education Code 17472, 17473)

The Board may reject any and all bids, either written or oral, and withdraw the properties from sale when the Board determines that rejection is in the best public interest. If no proposals are submitted or the submitted proposals do not conform to all the terms and conditions specified in the resolution of intention to lease, the Board may lease the property in accordance with Education Code 17477. (Education Code 17476, 17477)

Of the proposals submitted by responsible bidders which conform to all terms and conditions specified in the resolution of intention to sell or lease, the Board shall finally accept the highest bid, after deducting commission, if any, to be paid to a licensed real estate broker, unless the Board accepts a higher oral bid or rejects all bids. (Education Code 17472)

The final acceptance of the bid may be made either at the same meeting specified in the resolution or at any adjourned/continued meeting held within 10 days. Upon acceptance of the bid, the Board may adopt a resolution of acceptance that directs the Board president, or any other Board member, to execute the deed or lease and to deliver the document upon performance and compliance by the successful bidder of all of the terms and conditions of the contract. (Education Code 17475 -17478)

(cf. 1431 - Waivers)

(cf. 9320—Meetings and Notices)

Use of Proceeds

The Superintendent or designee shall ensure that proceeds from the sale or lease with an option to purchase of surplus district property are used ~~in accordance with law~~ **for one-time expenditures and not for ongoing expenditures such as salaries and general operating expenses.** (Education Code 17462; 2 CCR 1700)

However, if the Board and SAB determine that the district has no anticipated need for additional sites or building construction for the next 10 years and no major deferred maintenance requirements, the proceeds from the sale or lease with an option to purchase may be deposited in a special reserve fund for the future maintenance and renovation of school sites or in the district's general fund. (Education Code 17562)

(cf. 3100 - Budget)

(cf. 3460 – Financial Reports and Accountability)

~~Pursuant to the authorization in Education Code 17463.7 the District may expend proceeds from the sale of surplus real property, along with the proceeds from any personal property located on that real property, for any one-time general fund purpose(s). Prior to exercising this authority, the Board shall certify to the State Allocation Board that: (Education Code 17463.7)~~

- ~~1. The District has no major deferred maintenance requirements not covered by existing capital outlay resources.~~

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2. ~~The sale of real property pursuant to Education Code 17463.7 does not violate the provisions of a local bond act.~~

(cf. 7214 — General Obligation Bonds)

3. ~~The real property is not suitable to meet projected school construction needs for the next 10 years.~~

~~Prior to exercising this authority, the Superintendent or designee shall present to the Board, at a regularly scheduled meeting, a plan for expending these one-time resources. The plan shall identify the source and use of the funds and shall describe the reasons that the expenditure shall not result in ongoing fiscal obligations for the district. (Education Code 17463.7)~~

In addition, until July 1, 2024, if district surplus property was purchased entirely with local funds, the proceeds from the sale or lease of the property, together with any personal property located on the property, may be deposited into the general fund of the district and may be used for any one-time general fund purpose. Before exercising this authority, the Board shall: (Education Code 17463.7)

1. Submit to SAB documents certifying that the sale of real property does not violate the provisions of a local bond act and the real property is not suitable to meet projected school construction needs for the next 10 years.
2. At a public meeting, adopt a plan for expending one-time resources from the sale or lease of the property which identifies the source and intended use of the surplus property proceeds and describes the reasons that the expenditure will not result in ongoing fiscal obligations for the district.

Whenever the district sells real property that was purchased, improved, or modernized with funds that were received from a state school facilities funding program within the previous 10 years, the district shall notify OPSC within 90 calendar days of the sale of the property if the proceeds from the sale are not used for capital outlay and the property is not sold to a charter school, another school district, a county office of education, or an agency that will use the property exclusively for the delivery of child care and development services. If SAB

subsequently makes a finding that the sale is subject to Education Code 17462.3, the district shall return the funds to the SAB within 90 calendar days of the finding. (2 CCR 1702)

Legal Reference:

EDUCATION CODE

17219- 17224 Acquisition of property not utilized as school site; nonuse payments; exemptions

17230-17234 Surplus property

17385-Conveyances to and from school districts

17387-17391 Advisory committees for use of excess school facilities

17400-17429 Leasing property

17430-17447 Leasing facilities

17453 Lease of surplus district property

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17455-17484 Sale or lease of real property; especially:

17463.7-Proceeds for general fund purposes

17485-17500 Surplus school playground (Naylor Act)

17515-17526 Joint occupancy

17527-17535 Joint use of district facilities

33050 Request for waiver

38130-38139 Civic Center Act

GOVERNMENT CODE

50001-50002 Definitions

54220-54232 Surplus land especially:

54222 Offer to sell or lease property

54950-54963 Brown Act, especially:

54952 Legislative body, definition

PUBLIC RESOURCES CODE

21000-21177 California Environmental Quality Act

CODE OF REGULATIONS, TITLE 2

1700-1702 Surplus property; use of proceeds

COURT DECISIONS

San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School

District, (2006) 139 Cal.App.4th 1356

ATTORNEY GENERAL OPINIONS

94 Ops.Cal.Atty.Gen 82 (2011)

Management Resources:

CSBA PUBLICATION

~~*Maximizing Opportunities for Physical Activity Through Joint Use of Facilities, Policy Brief, September 2009*~~

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Closing a School Best Practices Guide

OFFICE OF PUBLIC SCHOOL CONSTRUCTION PUBLICATIONS

Unused Site Program Handbook, ~~May 2008~~ December 2015

WEB SITES

CSBA: <http://www.csba.org>

California Department of Education, School Facilities Planning Division: <http://www.cde.ca.gov/ls/fa>

Coalition for Adequate School Housing: <http://www.cashnet.org>

Office of Public School Construction: <http://www.opcs.dgs.ca.gov>

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Policy amended: January 19, 2012

Policy adopted: January 14, 2010