

CONCEPTS AND ROLES

The Governing Board recognizes that one of its major responsibilities is to provide healthful, safe and adequate facilities that enhance the instructional program. The Board shall endeavor to make the provision of adequate school facilities a priority in the district. Because the schools serve as a focal point for the community, the Board shall also strive to ensure that district facilities fit harmoniously and attractively into their neighborhoods and have flexibility of design to meet future educational and community needs.

(cf. 9000 - Role of the Board)

The Board shall strive to have a school facilities master plan in place and regularly reviewed in light of the district's educational goals. In accordance with this plan, the Board shall:

1. Approve additions or major alterations to existing buildings

(cf. 7111 - Evaluating Existing Buildings)

2. Determine what new buildings shall be built, when and where, and what equipment shall be purchased for them

3. Determine the method of financing that will be used

(cf. 7210 - Facilities Financing)

4. Select and purchase school sites for future expansion

(cf. 7150 - Site Selection and Development)

5. Approve the selection of architects and structural engineers

(cf. 7140 - Architectural and Engineering Services)

6. Award contracts for design and construction

7. Name schools and individual buildings

(cf. 7310 - Naming of Facility)

8. Advocate school facility needs to the community

(cf. 7110 - Facilities Master Plan)

(cf. 7131 - Relations with Local Agencies)

The Superintendent or designee shall:

1. Assess the district's short- and long-term facility needs

CONCEPTS AND ROLES (continued)

2. Direct the preparation and updating of the facilities master plan
3. Oversee the preparation of bids and award of contracts

(cf. 3311 - Bids)

4. Supervise the implementation of the district's building program in accordance with the master plan, Board policy, and state and local requirements, including collaboration with the architect and contractor on the construction of new facilities and modernization of existing facilities
5. Represent the district in official governmental interactions related to the building program

Legal Reference:

EDUCATION CODE

17210-17224 General provisions (school sites)

17260-17268 Plans of schoolhouses

17280-17317 Approval of plans and supervision of construction

17340-17343 Building of schoolhouses

17350-17360 Factory-built school buildings

17365-17374 Fitness of buildings for occupancy; liability of board members

17400-17429 Leasing of school buildings

CODE OF REGULATIONS, TITLE 5

14000 Policy declaration

14001 Minimum standards

14010 Procedure for site acquisition

14030 Preliminary procedure, planning and approval of school facilities

14031-14032 Submissions to bureau of school facilities planning; approval

FACILITIES MASTER PLAN

The Superintendent or designee shall develop and maintain a master plan for district facilities. This plan shall describe the district's anticipated school facilities needs and priorities. It shall also identify funding sources and timelines for building. The plan shall be reviewed at regular intervals specified within the plan.

The plan shall be based on an assessment of the district's short- and long-term facility needs, giving consideration to:

1. Current and projected school enrollments for each grade level, based on residential housing growth patterns in accordance with city/county general plans and other demographic factors

2. The district's educational goals

(cf. 0200 - Goals for the School District)

3. Current and projected educational program requirements

4. Student safety and welfare

5. An evaluation of existing buildings and needs for modernization and renovation

(cf. 7111 - Evaluating Existing Buildings)

6. State planning standards and local zoning requirements

7. The community's social, economic and political characteristics

8. Estimated costs associated with meeting the district's facility needs

The Superintendent or designee shall ensure that staff, parents/ guardians, students, and business and community representatives are kept informed of the need for facilities construction or modernization. The Superintendent or designee may also establish a facilities committee that shall meet at regular intervals in order to give community members opportunities to provide input into the planning process.

(cf. 1220 - Citizen Advisory Committees)

To ensure that proposed facilities conform with all state planning standards and local zoning requirements, the Superintendent or designee shall consult architectural and engineering firms, utility companies, local governmental and planning agencies, the county office of education, the California Department of Education, the Division of the State Architect and the Office of Public School Construction. Assistance from colleges and universities, planning laboratories and private consulting firms shall be authorized when necessary to augment district staff resources.

Legal Reference: (see next page)

FACILITIES MASTER PLAN (continued)

Legal Reference:

EDUCATION CODE

17017.5 Approval of applications for projects

17251 CDE standards and advice

17260-17268 Plans of schoolhouses, especially:

17264 Plan requiring accommodation for child care programs

17280-17316 Approval of plans and supervision of construction

17365-17374 Fitness for occupancy

17405 Relocatable structures; lease requirements

35275 New school planning; cooperation with recreation and park authorities

CODE OF REGULATIONS, TITLE 5

14001 Minimum standards

14030-14036 Standards, planning and approval of school facilities

UNITED STATES CODE, TITLE 42

12101 et seq. Americans with Disabilities Act

FACILITIES MASTER PLAN

The Superintendent or designee shall prepare educational specifications for school design to support the educational program as determined by district goals, objectives, policies and community input. (5 CCR 14030)

Plans shall also comply with the Americans with Disabilities Act and its implementing regulations which require that facilities be designed and constructed so that they are readily accessible to and usable by individuals with disabilities. (42 USC 12131 et seq.)

Plans shall also comply with state requirements for appropriate space to accommodate before- and after-school child care programs. (5 CCR 14030)

EVALUATING EXISTING BUILDINGS

The Superintendent or designee shall periodically evaluate the adequacy and design of existing district facilities to determine whether they meet the needs of the instructional program, provide a healthful and pleasing environment for students and staff, and fulfill legal requirements for safety and structural soundness, access for the disabled and energy conservation.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 3511 - Energy and Water Conservation)

(cf. 3514 - Environmental Safety)

(cf. 7110 - Facilities Master Plan)

In the event that the Department of General Services or any licensed structural engineer or licensed architect finds and reports to the Governing Board that a district building is unsafe for use, the Superintendent or designee shall immediately obtain an estimate of the cost of repairs or reconstruction necessary to bring the building up to legal standards for structural safety. The Board shall establish a system of priorities for the repair, reconstruction or replacement of unsafe school buildings. (Education Code 17367)

Energy Efficiency

When evaluating existing buildings, the Superintendent or designee shall arrange for the pre-audit and postaudit of school buildings by utility companies or independent energy audit firms to the extent that these services are available. Information provided by these services shall be used to determine the cost of retrofitting the buildings and the savings which may result from adding insulation, making design modifications or using other energy-conserving devices. The district may contract with qualified businesses capable of retrofitting these buildings and may borrow funds which do not exceed the amount of energy savings to be accumulated from the improvement of the buildings. (Education Code 17651-17653)

Report of Existing Building Capacity

The district shall submit a one-time report of existing school capacity to the State Allocation Board. The district's, or where appropriate the attendance area's, existing school capacity shall be calculated pursuant to the formulas set forth in Education Code 17071.10-17071.40 and in 2 CCR 1859-1859.106.

Legal Reference: (see next page)

EVALUATING EXISTING BUILDINGS (continued)

Legal Reference:

EDUCATION CODE

17070.10-17077.10 *Leroy F. Greene School Facilities Act of 1998 especially:*

17071.10-17071.40 *Existing school building capacity*

17280-17316 *Building approvals*

17365-17374 *Fitness for occupancy*

17650-17653 *Retrofitting school facilities for energy conservation*

GOVERNMENT CODE

53097 *Compliance with city or county ordinances*

53097.5 *Inspection of schools by city or county*

CODE OF REGULATIONS, TITLE 2

1859-1859.106 *Regulations relating to the Leroy F. Greene School Facilities Act of 1998*

Management Resources:

WEB SITES

Department of General Services, Office of Public School Construction: <http://www.dgs.ca.gov/opsc/>

RELATIONS WITH LOCAL AGENCIES

The Governing Board recognizes the importance of two-way communication with other local agencies in order to provide the best possible school facilities and make the best use of school construction funds. The Board shall consult and coordinate with local agencies as required by law and whenever the expertise of these agencies can assist the district in the planning, design and construction of facilities.

(cf. 7150 - Site Selection and Development)

The Superintendent or designee shall monitor land development proposals within district boundaries and shall ensure that an exchange of accurate information with county planning staff regarding the impact of land development on the district's educational programs and facility needs is maintained.

(cf. 7150 - Site Selection and Development)

(cf. 7210 - Facilities Financing)

(cf. 7211- Developer Fees)

Recognizing that available funds may not suffice to eliminate overcrowding in district schools caused by new development, the Board urges the county to adopt in its general plan, or other appropriate planning documents, a provision which ensures that adequate school facilities will be available to the extent permitted by law.

Impact Ordinances

The Board shall notify the county board of supervisors whenever it finds, based on clear and convincing evidence: (Government Code 65971)

1. That conditions of overcrowding exist in one or more attendance areas within the district which will impair the normal functioning of the educational programs, and the reason for the existence of those conditions
2. That all reasonable methods of mitigating conditions of overcrowding have been evaluated and no feasible method for reducing those conditions exist

The above notice shall specify the mitigation measures considered by the district and shall include a completed application to the Office of Public School Construction for preliminary determination of eligibility for school construction under applicable state law. (Government Code 65971)

Legal Reference: (see next page)

RELATIONS WITH LOCAL AGENCIES (continued)

Legal Reference:

EDUCATION CODE

17280-17316 *Approval of plans and supervision of construction*

35275 *New school planning; cooperation with recreation and park authorities*

GOVERNMENT CODE

53090-53097.5 *Compliance with city or county regulations*

65300-65307 *Authority for and scope of general plans*

65850-65863.11 *Adoption of regulations, especially*

65860 *Consistency of zoning ordinances with general plan*

65970-65981 *School facilities, especially:*

65995-65998 *Developer fees*

PUBLIC RESOURCES CODE

21000-21177 *California Environmental Quality Act of 1970*

CODE OF REGULATIONS, TITLE 5

14010 *Procedure for site acquisition*

CODE OF REGULATIONS, TITLE 14

15000-15282 *Implementation of California Environmental Quality Act of 1970*

ARCHITECTURAL AND ENGINEERING SERVICES

In order to ensure safe construction and protect the investment of public funds, the Governing Board requires that a licensed and certified architect or structural engineer be employed to design and supervise the construction of district schools and other facilities.

The Superintendent or designee shall devise a competitive process for the selection of architects and structural engineers that is based on demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. For each project, he/she shall recommend specific architectural and engineering firms to the Board. The Board shall pay fair and reasonable amounts warranted by the provider's qualifications and competence. The Board need not select the lowest responsible bidder.

(cf. 3311 - Bids)

(cf. 3312.11 - State Allocation Board Contracts)

Legal Reference:

EDUCATION CODE

17070.50 Conditions for apportionment

17280-17316 Approvals, especially:

17302 Persons qualified to prepare plans, specifications and estimates and supervise construction

17316 Contract provision re school district property

17371 Limitation on liability of governing board

GOVERNMENT CODE

4525-4529.5 Contracts with private architects, engineering, land surveying, and construction project management firms

14837 Definition of small business

87100 Public officials; financial interest

PUBLIC CONTRACT CODE

20111 School district contracts

ARCHITECTURAL AND ENGINEERING SERVICES

The Governing Board shall engage the services of a licensed architect(s) holding a valid certificate or engineer(s) holding a valid certificate for the preparation of plans, specifications or estimates for any construction project, through a signed contract. (Education Code 17302)

(cf. 3312 - Contracts)

Contractors for any architectural, landscape architectural, engineering, environmental, land surveying or construction project management services shall be selected, at fair and reasonable prices, on the basis of demonstrated competence and professional qualifications necessary for the satisfactory performance of the services required. (Government Code 4526)

The Superintendent or designee shall ensure that the selection process for projects receiving state funding: (Government Code 4526)

1. Ensures that projects entail maximum participation by small business firms as defined pursuant to Government Code 14837
2. Prohibits practices which might result in unlawful activity such as rebates, kickbacks, or other unlawful consideration
3. Prohibits district employees from participating in the selection process when they have a relationship with a person or business entity seeking a contract which would subject the employee to the prohibition of Government Code 87100

(cf. 9270 - Conflict of Interest)

The selection process may also include: (Government Code 4527)

1. Detailed evaluations of current statements of prospective contractors' qualifications and performance data
2. Discussion of alternative approaches for furnishing the services with at least three firms
3. Selection of at least three firms deemed to be the most highly qualified to provide the required services, in accordance with established criteria and recommended in order of preference

Contracts shall specify that all plans, specifications and estimates prepared by the contractor shall become the property of the district. (Education Code 17316)

SITE SELECTION AND DEVELOPMENT

The Governing Board believes that an adequate school site should serve the district's educational needs in accordance with the district's master plan and also show potential for contributing to other community needs. The Board will solicit community input whenever a school site is to be selected.

(cf. 7110 - Facilities Master Plan)

The Superintendent or designee shall establish a site selection process which complies with law and ensures that the best possible sites are acquired and developed at the least expense.

(cf. 7140 - Architectural and Engineering Services)

(cf. 7210 - Facilities Financing)

Before acquiring property for a new school or an addition to an existing school site, the Board shall evaluate the property at a public hearing using state site selection standards. (Education Code 17211)

The Superintendent or designee shall determine whether any proposed development project is subject to the requirements of the California Environmental Quality Act (CEQA) and shall ensure compliance with this Act whenever so required. When evaluating district projects, the CEQA guidelines shall be used. (Public Resources Code 21082)

Legal Reference (see next page)

SITE SELECTION AND DEVELOPMENT (continued)

Legal Reference:

EDUCATION CODE

17006 *Definition of self-certifying district*

17024 *Prior written approval of CDE for selection of school site or construction of building*

17070.10-17076.10 *Leroy F. Greene School Facilities Act of 1998 especially:*

17211-17218 *General provisions (school sites), especially:*

17251 *Powers concerning buildings and building sites*

17268 *Compliance before construction*

17565-17592 *Board duties re management and control of school property*

35271 *Power to acquire and construct on adjacent property*

35275 *New school planning and design, re consultation with local recreation and park authorities*

CODE OF CIVIL PROCEDURE

1263.710-1263.770 *Remediation of hazardous substances on property to be acquired by school districts.*

GOVERNMENT CODE

65402 *Acquisition or disposition of property*

65995-65997 *Developer fees*

66455.9 *Written notices of proposed public school site within development; investigation and report; conditions for acquisition*

PUBLIC RESOURCES CODE

21000-21178 *Implementation of Environmental Quality Act*

CODE OF REGULATIONS, TITLE 5

14001-14037 *Minimum standards*

CODE OF REGULATIONS, TITLE 14

15000-15209 *Review and evaluation of EIRs and negative declarations*

SITE SELECTION AND DEVELOPMENT

As part of the district's site selection process, the Superintendent or designee shall:

1. Meet with appropriate local government recreation and park authorities to review all possible methods of coordinating the planning, design, and construction of new school facilities and school sites or major additions to existing school facilities and recreation and park facilities in the community. (Education Code 35275)

(cf. 7131 - Relations with Local Agencies)

2. Notify the appropriate local planning agency and request its report and recommendations regarding the proposed site's conformity with the adopted general plan. (Government Code 65402; Public Resources Code 21151.2)
3. Have the site investigated by competent personnel with regard to population trends, transportation, water supply, waste disposal facilities, utilities, traffic hazards, surface drainage conditions and other factors affecting initial and operating costs. This investigation shall include geological and soil engineering studies to preclude locating the school on terrain that may be potentially hazardous. (Education Code 17212-17212.5)
4. Prepare an environmental impact report or negative declaration which complies with the California Environmental Quality Act (CEQA) and includes findings related to hazardous substances, solid wastes and hazardous air emissions. (Public Resources Code 21000-21178; Education Code 17213)
5. If the proposed site is within two miles of the center line of an airport runway or proposed runway, notify and follow the recommendations of the State Department of Transportation, Division of Aeronautics. (Education Code 17215)
6. If the proposed site is in an area designated in a city, county, or city and county general plan for agricultural use and zoned for agricultural production, ensure that the Governing Board has determined all of the following: (Education Code 17215.5)
 - a. That the district has notified and consulted with the city, county, or city and county within which the prospective site is to be located
 - b. That the Board has evaluated the final site selection based on all factors affecting the public interest and not limited to selection on the basis of the cost of the land
 - c. That the district shall attempt to minimize any public health and safety issues resulting from the neighboring agricultural uses that may affect students and employees at the site

SITE SELECTION AND DEVELOPMENT (continued)

7. Ensure that the site meets state standards for school site selection as specified in 5 CCR 14010, unless the district has satisfactorily demonstrated to the Superintendent of Public Instruction that circumstances can be mitigated without compromising a safe and supportive school environment. These standards address, but are not limited to, the following: (5 CCR 14010)
 - a. Acreage and enrollment for a new school site and, if acreage is insufficient, demonstration of how students will be provided an adequate educational program, including physical education
 - b. Distance from power line and railroad track easements and from roads or freeways that may cause safety and/or sound-level problems
 - c. Avoidance of safety hazards including earthquake faults, flood areas, landslides, and above-ground water or fuel storage tanks
 - d. Length-to-width ratio of the site to allow safe supervision of buildings, parking areas and playfields and enable students to meet the district's passing times to classes
 - e. Traffic patterns and accessibility from roads
 - f. Compatibility of existing or proposed zoning of surrounding properties
 - g. Location within the proposed attendance area to encourage student walking and avoid extensive busing
 - h. Joint use of parks, libraries, museums and other public services
 - i. Convenience of location for public services, including fire and police protection, public transit and trash disposal
 - j. Environmental factors of light, wind, noise, aesthetics and air pollution
 - k. Potential cost and delay issues, such as the distance of utilities to the site and other land development needs, relocation costs and legal fees, landscaping and maintenance costs, the existence of endangered or protected wildlife habitats, etc.

Environmental Impact Investigation

The following actions shall be taken in order to ensure compliance with the California Environmental Quality Act:

SITE SELECTION AND DEVELOPMENT (continued)

1. Each proposed project shall be evaluated to determine whether it:
 - a. Is exempt from the California Environmental Quality Act
 - b. Is the appropriate subject of a negative declaration
 - c. May have a significant effect on the environment that makes an environmental impact report (EIR) necessary
2. If the project is categorically exempt from the California Environmental Quality Act, a notice of exemption should be filed pursuant to Public Resources Code 21152.
3. The Superintendent or designee shall consult with the city or county and with the local air quality district in order to identify any facilities within a quarter mile of the proposed site which might produce hazardous air emissions or handle hazardous or acutely hazardous materials, substances or waste. (Education Code 17213)

Following this consultation, the Board shall make one of the following written findings: (Education Code 17213)

- a. That no such facilities exist
 - b. That although such facilities exist, one of the following conditions applies:
 - (1) The health risks from the facilities do not and will not actually or potentially endanger the health of students or staff.
 - (2) Corrective measures required under an existing order by another appropriate jurisdiction will, before the school is occupied, mitigate all chronic or accidental hazardous air emissions to levels that will not actually or potentially endanger the health of students or staff.
4. The Superintendent or designee shall determine that the proposed site is not any of the following: (Education Code 17213)
 - a. The site of a current or former hazardous waste or solid waste disposal site unless, if the site was a former solid waste disposal site, the Board concludes that the wastes have been removed
 - b. A hazardous substance release site identified by the State Department of Health Services and currently listed for removal or remedial action

SITE SELECTION AND DEVELOPMENT (continued)

- c. A site which contains one or more pipelines, under or above ground, carrying hazardous substances, acutely hazardous materials, or hazardous wastes, unless the pipeline is a natural gas line used only to supply natural gas to the school or neighborhood
5. Information resulting from the investigations in items #3 and #4 above shall be included in the negative declaration or EIR.
6. If the initial study has identified potentially significant effects on the environment, a mitigated negative declaration shall be filed. The mitigated negative declaration must show that: (Public Resources Code 21064.5)
 - a. Revisions in the proposal before the negative declaration is released would mitigate the effect so that no significant effect on the environment would occur.
 - b. There is no record that the revised project would have a significant effect on the environment.
7. If it is determined that the project does not require the preparation of a draft EIR, a negative declaration and the initial study shall be filed with the Office of Planning and Research (state clearinghouse) and with the county clerk. (Public Resources Code 21152; 14 CCR 15205-15206)

Copies of the negative declaration and the initial study shall also be made available to local planning agencies, other interested persons, and to the general public.

- a. The Board shall not approve a project until at least 30 days have passed for review and comment of the proposed negative declaration or the draft EIR. This review period shall be extended as necessary for review by the state clearinghouse. (Public Resources Code 21091)

When the district is preparing a negative declaration, public notice of that fact shall be provided pursuant to Public Resources Code 21092. The notice shall briefly describe the proposed project and its location, the address where copies of the negative declaration and all documents referenced therein are available for review, the time period when comments will be received, and the date, time and place of any related public meetings or hearings. (Public Resources Code 21092)

SITE SELECTION AND DEVELOPMENT (continued)

The above notice shall be either published in a newspaper of general circulation in the area(s) affected by the notice, posted on or off site in the area where the project is to be located, or mailed directly to the owners and occupants of contiguous property shown on the latest equalized assessment role. (Public Resources Code 21092)

The notice shall also be posted in the office of the county clerk and mailed to all persons who have requested it. It shall remain posted for 20 days unless otherwise required by law to be posted for 30 days. (Public Resources Code 21092.3)

The request for a mailed notice shall be renewed annually. Except for notices sent to public agencies, the district shall charge a fee which is reasonably related to the cost of providing the notice.

- b. Upon the close of the review period, the Board shall determine whether the project is the appropriate subject of a negative declaration at a special or regularly scheduled meeting.
 - (1) The Board may affirm the decision that the project is the appropriate subject of a negative declaration and subsequently proceed according to #8(g).
 - (2) If the Board determines that the project is not the appropriate subject of a negative declaration, it will proceed in accordance with #8.
8. If the project may have a significant effect on the environment, an EIR shall be prepared. (Public Resources Code 21080, 21153)
 - a. Upon completion, the draft EIR shall be filed in accordance with 14 CCR 15206. The notice of completion and draft EIR shall also be made available to local planning agencies, appropriate state agencies, other interested parties, and to the general public.
 - b. The public review period for the draft EIR shall be no less than 45 days. This review period shall be extended as necessary for review by the state clearinghouse. (Public Resources Code 21091)
 - c. When the district is preparing an EIR, public notice shall be provided pursuant to Public Resources Code 21092. The notice shall briefly describe the proposed project and its location, any significant effects on the environment anticipated as a result of the project, the address where copies of the draft EIR and all documents referenced therein are available for review, the time period when comments will be received, and the date, time and place of any related public meetings or hearings. (Public Resources Code 21092)

SITE SELECTION AND DEVELOPMENT (continued)

The above notice shall be either published in a newspaper of general circulation in the area(s) affected by the notice, posted on or off site in the area where the project is to be located, or mailed directly to the owners and occupants of contiguous property shown on the latest equalized assessment role. (Public Resources Code 21092)

The notice also shall be posted in the office of the county clerk and mailed to all persons who have requested it. It shall remain posted for 30 days. (Public Resources Code 21092.3)

The request for a mailed notice shall be renewed annually, and a fee may be charged as described in item #7(a) above.

- d. After filing the notice of completion, the district shall consult with, and obtain comments from, any bordering cities or counties and any public agency which has jurisdiction over the project. The district also may consult with any other person who has special expertise with respect to any environmental impact involved. (Public Resources Code 21153)
 - e. Before the final EIR is prepared, the community shall be given the opportunity to comment on the draft.
 - f. The final EIR shall be adopted by the Board prior to the Board's decision to proceed with the project.
 - g. The notice of determination shall be filed with the county clerk and the Office of Planning and Research.
9. If mitigation measures are required as part of either making a negative declaration or completing an EIR, the Board shall adopt a reporting and monitoring program. The reporting or monitoring program shall be designed to ensure compliance with the mitigation measure during project implementation. (Public Resources Code 21081.6)

FACILITIES FINANCING

When it is determined that school facilities must be built or expanded to accommodate a increased or projected increased enrollment, the Governing Board shall consider appropriate methods of financing for the purchase of school sites and the construction of buildings. In addition, financing may be needed when safety considerations and educational program improvements require the replacement, reconstruction or modernization of existing facilities.

The Superintendent or designee shall research funding alternatives and recommend to the Board the method that would best serve district needs as identified in the district's master plan for school facilities.

(cf. 7110 - Facilities Master Plan)

These funding alternatives may include, but not be limited to:

1. Levy developer fees pursuant to Education Code 17620 and Government Code 65995-65998

(cf. 7211- Developer Fees)

2. Forming a community facilities district pursuant to Government Code 53311-53368.3, the Mello-Roos Community Facilities Act

(cf. 7212 - Mello-Roos Districts)

3. Forming a school facilities improvement district pursuant to Education Code 15300-15425

(cf. 7213 - School Facilities Improvement Districts)

4. Issuing voter-approved general obligation bonds
5. Imposing a qualified parcel tax pursuant to Government Code 50079
6. Using lease revenues for capital outlay purposes from surplus school property

Legal Reference: (see next page)

FACILITIES FINANCING (continued)

Legal Reference:

EDUCATION CODE

15100-17059.2 *School bonds, especially:*

15122.5 *Ballot statement*

15300-15425 *School facilities improvement districts*

17000-17059.2 *State School Building Lease-Purchase Law of 1976*

17060-17066 *Joint venture school facilities construction projects*

17070.10-17076.10 *Leroy F. Greene School Facilities Act of 1998*

17085-17095 *State Relocatable Classroom Law of 1979*

17582 *District deferred maintenance fund*

17620-17626 *Levies against development projects by school districts especially:*

17621 *Procedures for levying fees*

GOVERNMENT CODE

6061 *One time notice*

6066 *Two weeks' notice*

50075-50077 *Voter-approved special taxes*

50079 *School districts; qualified special taxes*

53175-53187 *Integrated Financing District Act*

53311-53368.3 *Mello-Roos Community Facilities Act of 1982*

53753 *Assessment notice and hearing requirements*

53753.5 *Exemptions*

54954.1 *Mailed notice to property owners*

54954.6 *New or increased tax or assessment; public meetings and hearings; notice*

65864-65867 *Development agreements*

65970-65980.1 *School facilities development project*

65995-65998 *Payment of fees against a development project*

66000-66008 *Fees for development projects*

66016-66018.5 *Development project fees*

66020-66025 *Protests and audits*

HEALTH AND SAFETY CODE

33445.5 *Overcrowding of schools resulting from redevelopment*

33446 *School construction by redevelopment agency*

CALIFORNIA CONSTITUTION

Article 13D, Sections 1-6 *Assessment and property related fee reform*

UNCODIFIED STATUTES

17696-17696.98 *Greene-Hughes School Building Lease-Purchase Bond Law of 1986*

CODE OF REGULATIONS, TITLE 2

1859-1859.106 *School facility program*

Legal Reference continued: (see next page)

FACILITIES FINANCING (continued)

Legal Reference: (continued)

COURT DECISIONS

Loyola Marymount University v. Los Angeles Unified School District (1996) 45 Cal.App.4th 1256

Ehrlich v. City of Culver City (1996) 12 Cal.4th 854

Dolan v. City of Tigard (1994) 114 S.Ct. 2309

Canyon North Co. v. Conejo Valley Unified School District (1993) 19 Cal.App.4th 243, 23 Cal.Rptr.2d 495

Garlic Development Co. v. Hayward Unified School District (1992) 3 Cal.App.4th 320, 4 Cal.Rptr.2d 897

Nollan v. California Coastal Commission (1987) 107 S.Ct. 3141

ATTORNEY GENERAL OPINIONS

79 Ops.Cal.Atty.Gen. 149 (1996)

Management Resources:

WEB SITES

Department of General Services, Office of Public School Construction: <http://www.dgs.ca.gov/opsc/>

DEVELOPER FEES

In order to finance the construction or reconstruction of school facilities needed to accommodate students coming from new development, the Governing Board may establish, levy and collect developer fees on residential, commercial and industrial construction within the district, subject to restrictions specified by law and administrative regulation.

Appeals Process for Protests by Developers

The Superintendent or designee shall establish an appeals process for the handling of protests by developers. (Education Code 17621)

Developers of residential, commercial and industrial projects who claim that the developer fee has been inappropriately levied shall use the following procedures: (Government Code 66020)

1. The developer shall tender any required payment in full or provide satisfactory evidence of arrangements to pay the fee when due or ensure performance of the conditions necessary to meet the requirements of the imposition.
2. The developer shall serve written notice to the Board. This notice shall include:
 - a. A statement that the required payment is tendered or will be tendered when due, or that any conditions which have been imposed are provided for or satisfied, under protest.
 - b. A statement informing the Board of the factual elements of the dispute and the legal theory forming the basis for the protest.
3. The protest shall be filed at the time of approval or conditional approval of the development or within 90 days after the date of the imposition of the fees.
4. The developer may file an action to attack, review, set aside, void or annul the imposition of the fees imposed on the development project within 180 days of delivery of the notice

Legal Reference: (see next page)

DEVELOPER FEES (continued)

Legal Reference:

EDUCATION CODE

17070.10-17077.10 *Leroy F. Greene School Facilities Act of 1998*

17582 *District deferred maintenance fund*

17620-17626 *Levies against development projects by school districts*

GOVERNMENT CODE

6061 *One time notice*

6066 *Two weeks' notice*

65864-65869.5 *Development agreements*

65995-65998 *Payment of fees against a development project*

66000-66008 *Fees for development projects*

66016-66018.5 *Development project fees*

66020-66025 *Protests and audits*

CODE OF REGULATIONS, TITLE 2

1859-1859.106 *School facility program*

COURT DECISIONS

Dolan v. City of Tigard (1994) 114 S.Ct. 2309

Management Resources:

WEB SITES

Department of General Services, Office of Public School Construction: <http://www.dgs.ca.gov/opsc/>

MELLO ROOS DISTRICTS

In order to form a Mello-Roos community facilities district which may issue bonds and/or levy a special tax to finance school construction, the Superintendent or designee shall recommend to the Governing Board related goals and policies addressing the following: (Government Code 53312.7)

1. The priority that various facilities shall have for financing through the Mello-Roos district
2. The credit quality to be required of bond issues and criteria to be used in evaluating the credit quality
3. Steps by which prospective property purchasers shall be fully informed about their related taxpaying obligations
4. Criteria for evaluating the equity of tax allocation formulas
5. Maximum tax burdens to be levied against any parcel
6. Definitions, standards and assumptions to be used in appraisals required by Government Code 53345.8

(cf. 5116 - School Attendance Boundaries)

The proceeds of any bonds, notes or other securities issued pursuant to the Mello-Roos Community Facilities Act shall be deposited or invested in accordance with Government Code 53356.03.

Legal Reference: (see next page)

MELLO-ROOS DISTRICTS (continued)

Legal Reference:

EDUCATION CODE

15300-15425 *School facilities improvement districts*

17060-17066 *Joint venture school facilities construction projects*

GOVERNMENT CODE

53311-53368.3 *Mello-Roos Community Facilities Act of 1982*

53753 *Assessment notice and hearing requirements*

53753.5 *Exemptions*

54954.1 *Mailed notice to property owners*

54954.6 *New or increased tax or assessment; public meetings and hearings; notice*

65970-65981 *School facilities development project*

65995 *Levies against development projects*

CODE OF REGULATIONS, TITLE 2

1859-1859.106 *School facility program*

Management Resources:

WEB SITES

Department of General Services, Office of Public School Construction: <http://www.dgs.ca.gov/opsc/>

SCHOOL FACILITIES IMPROVEMENT DISTRICTS

The Governing Board may select Option 1 or 2 when forming a school facilities district.

OPTION 1:

The district may form a school facilities improvement district to finance any or all of the improvements set forth in Education Code 15302. The territory of the school facilities improvement district shall include all of the territory that is not included in the existing Mello-Roos District. (Education Code 15301)

(cf. 7212 - Mello-Roos Districts)

OPTION 2:

As part of the determination that it is necessary and in the best interest of the district to form a school facilities improvement district to finance any or all of the improvements set forth in Education Code 15302, the Governing Board shall find that the overall cost of financing the bonds issued would be less than the overall cost of other school financing options available to the district including, but not limited to, issuing bonds pursuant to the Mello-Roos Community Facilities Act. (Education Code 15301)

The Board shall also define the boundaries of the school facilities improvement district to include any portion of territory within the jurisdiction of the school district. However, these boundaries may not include all or a portion of the territory of the community facilities district formed pursuant to the Mello-Roos Community Act. (Education Code 15301)

Legal Reference:

EDUCATION CODE

15300-15425 School facilities improvement districts

GOVERNMENT CODE

6061 One time notice

6066 Two weeks' notice

50075-50077 Voter-approved special taxes

50079 School districts; qualified special taxes

53175-53187 Integrated Financing District Act

53753 Assessment notice and hearing requirements

53753.5 Exemptions

54954.1 Mailed notice to property owners

54954.6 New or increased tax or assessment; public meetings and hearings; notice

Management Resources:

WEB SITES

Department of General Services, Office of Public School Construction: <http://www.dgs.ca.gov/opsc/>

NAMING OF FACILITY

The Governing Board shall name schools or individual buildings in recognition of:

1. Individuals, living or deceased, who have made outstanding contributions to the county or community
2. Individuals, living or deceased, who have made contributions of state, national or worldwide significance
3. The geographic area in which the school or building is located

The Board encourages community participation in the process of selecting names. A citizen advisory committee shall be appointed to review name suggestions and submit recommendations for the Board's consideration.

(cf. 1220 - Citizen Advisory Committees)

The renaming of existing schools or major facilities shall occur only under extraordinary circumstances and after thorough study.

Memorials

Upon request, the Board shall consider naming buildings, parts of buildings or athletic fields in honor of the contributions of students, staff members and community members who have been deceased for at least one year.

Legal Reference:

EDUCATION CODE

35160 Authority of governing boards