

**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

*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 Governing Board recognizes the importance of long-range planning for school facilities in order to help meet the changing needs of district students and to help ensure that resources are allocated in an efficient and effective manner. To that end, the Board directs the Superintendent or designee to develop and maintain a master plan for district facilities.

The plan shall describe the district's anticipated short- and long-term facilities needs and priorities and shall be aligned with the district's educational goals.

*(cf. 0000 - Vision)*  
*(cf. 7000 - Concepts and Roles)*  
*(cf. 7111 - Evaluating Existing Buildings)*  
*(cf. 7131 - Relations with Local Agencies)*  
*(cf. 7210 - Facilities Financing)*

The Superintendent or designee shall ensure that staff, parents/guardians, students, and business and community representatives are kept informed of the need for construction and modernization of facilities and of the district's plans for facilities. 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. The committee may consult local governmental and state planning agencies in order to ensure compliance with local and state standards.

*(cf. 1220 - Citizen Advisory Committees)*

At least 45 days prior to completion of any facilities plan that relates to the potential expansion of existing school sites or the necessity to acquire additional school sites, the Superintendent or designee shall notify and provide copies of the plan or any relevant and available information to the planning commission or agency of the city or county with land use jurisdiction within the district. (Government Code 65352.2)

If the city or county commission or agency requests a meeting, the Superintendent or designee shall meet with them within 15 days following the notification. Items that the parties may discuss at the meeting include, but are not limited to, methods of coordinating planning with proposed revitalization efforts and recreation and park programs, options for new school sites, methods of maximizing the safety of persons traveling to and from the site, and opportunities for financial assistance. (Government Code 65352.2)

*Legal Reference: (see next page)*

**FACILITIES MASTER PLAN (continued)**

*Legal Reference:*

EDUCATION CODE

16011 Long range comprehensive master plan

16322 Department of Education services

17017.5 Approval of applications for projects

17251 Powers and duties of CDE

17260-17268 Plans of schoolhouses

17280-17317 Field Act

17365-17374 Fitness for occupancy

17405 Relocatable structures; lease requirements

35275 New school planning; cooperation with recreation and park authorities

GOVERNMENT CODE

53090-53097.5 Regulation of local agencies by counties and cities

65352.2 Communicating and coordinating of school sites

65995.6 School facilities needs analysis

CODE OF REGULATIONS, TITLE 5

14001 Minimum standards

14030-14036 Standards, planning and approval of school facilities

UNITED STATES CODE, TITLE 42

12101-12213 Americans with Disabilities Act

*Management Resources:*

WEB SITES

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

CDE, School Facilities Division: <http://www.cde.ca.gov/facilities>

**EVALUATING EXISTING BUILDINGS**

The Superintendent or designee shall periodically evaluate the adequacy, design, and conditions of existing district facilities to determine whether they meet the needs of the instructional program and provide a healthful and pleasing environment for students and staff. He/she also shall determine whether district facilities 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 Management)*

*(cf. 3514 - Environmental Safety)*

*(cf. 3515 - Campus Security)*

*(cf. 3516 - Emergencies and Disaster Preparedness Plan)*

*(cf. 3517 - Facilities Inspection)*

In addition, the Superintendent or designee shall regularly calculate the capacity of existing school buildings to adequately house the district's current students and projected enrollments.

Any identified needs for repair, modernization, or construction shall be incorporated into the district's facilities planning process.

*(cf. 7110 - Facilities Master Plan)*

**Structural Safety**

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)

A relocatable school building or structure shall meet the requirements of Education Code 17280-17317 and 17365-17374 pertaining to structural safety. However, a relocatable building that does not meet the requirements of Education Code 17280 may be used as a school building until September 30, 2015, if all the conditions specified in Education Code 17292 are met and the Board so certifies to the Department of General Services. (Education Code 17291, 17292)

**Energy Efficiency**

To the extent that services are available, the Superintendent or designee shall arrange for the energy audit of school buildings to identify the type and amount of work necessary to retrofit buildings and obtain an estimate of projected energy savings. 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)

**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:*

CSBA PUBLICATIONS

*Maximizing School Board Governance: School Facilities Management*

WEB SITES

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

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

California Energy Commission, Bright Schools Program:

<http://www.energy.ca.gov/efficiency/brightschoools>

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

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

**RELATIONS WITH LOCAL AGENCIES**

The Governing Board recognizes the importance of collaborating and communicating with other local agencies in order to provide the best possible school facilities and to allocate facility resources in an effective and efficient manner. The Board and district staff shall consult and coordinate with local agencies as required by law and whenever the expertise and resources of these agencies can assist the district in the planning, design and construction of facilities.

Following notification by a city or county of proposed action to adopt or substantially revise a general plan, the Board may request a meeting with the local planning agency to discuss possible methods of coordinating planning, design and construction of new school facilities and school sites. (Government Code 65352.2)

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

*(cf. 7150 - Site Selection and Development)*

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

*(cf. 7210 - Facilities Financing)*

*(cf. 7211- Developer Fees)*

**Notifications to Other Local Agencies**

The Board shall notify the city council or 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 exists

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)

**RELATIONS WITH LOCAL AGENCIES** (continued)

The Superintendent or designee shall notify the appropriate city or county planning agency of the adoption of a school facility needs analysis or facilities master plan, the acquisition of a school site, or other action regarding school facilities in accordance with law.

*(cf. 7110 - Facilities Master Plan)*

*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*

65352.2 *Communication between cities, counties and school districts*

65850-65863.11 *Adoption of regulations*

65970-65981 *School facilities*

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

15000-15285 *Implementation of California Environmental Quality Act of 1970*

*Management Resources:*

WEB SITES

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

*CDE, School Facilities Division: <http://www.cde.ca.gov/facilities>*



**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)*

*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 a school site should serve the district's educational needs in accordance with the district's master plan as well as show potential for contributing to other community needs.

*(cf. 7110 - Facilities Master Plan)*

The Board recognizes the importance of community input in the site selection process. To this end, the Board will solicit community input whenever a school site is to be selected and shall provide public notice and hold public hearings in accordance with law.

*(cf. 1220 - Citizen Advisory Committees)*  
*(cf. 9320 - Meetings and Notices)*

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 in a cost-effective manner.

*(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)

**Environmental Impact Investigation for the Site Selection Process**

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.

**Agricultural Land**

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, the Board shall determine all of the following: (Education Code 17215.5)

1. That the district has notified and consulted with the city, county, or city and county within which the prospective site is to be located
2. 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

**SITE SELECTION AND DEVELOPMENT (continued)**

3. 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

*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

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

17210-17224 General provisions (school sites)

17240-17245 New Schools Relief Act

17250.20-17250.35 Design-build contracts

17251-17253 Powers concerning buildings and building sites

17260-17268 Plans

17280-17317 Approvals

17565-17592.5 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 district

GOVERNMENT CODE

53094 Authority to render zoning ordinances inapplicable

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

HEALTH AND SAFETY CODE

44360 Risk assessment

PUBLIC RESOURCES CODE

21000-21177 Implementation of Environmental Quality Act

CODE OF REGULATIONS, TITLE 5

14001-14036 Minimum standards

CODE OF REGULATIONS, TITLE 14

15000-15209 Review and evaluation of EIRs and negative declarations

ATTORNEY GENERAL OPINIONS

82 Ops.Cal.Atty.Gen. 130 (1999)

*Management Resources:*

WEB SITES

CDE, School Facilities Planning Division: <http://www.cde.ca.gov/dmsbranch/sfpdiv>

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

**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 in writing and request its report and recommendations regarding the proposed site or proposed addition'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 has the potential for earthquake or other geologic hazard damage as specified in Government Code 65302. (Education Code 17212-17212.5)
4. As necessary, request information necessary or useful to assess and determine the safety of a proposed school site, or an addition to an existing school site, from a person, corporation, public utility, locally publicly owned utility, or governmental agency regarding pipelines, electric transmission and distribution lines, railroads, and storage tanks in accordance with law. (Education Code 17212.2, 17251)
5. Ensure that the site meets state standards for school site selection as specified in 5 CCR 14010-14012.
6. Ensure compliance with the California Environmental Quality Act (CEQA) as required by law. (Public Resources Code 21000-21177)
7. If the proposed site is within two miles of the air line of an airport runway or proposed runway, before acquiring title to or leasing the site, notify the California Department of Education in writing. (Education Code 17215)
8. If the proposed site is within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor, conduct an air quality analysis pursuant to Health and Safety Code 44360 and Education Code 17213 and determine that the air quality at the proposed site is such that neither short-term nor long-term exposure poses significant health risks to students. (Education Code 17213)

**SITE SELECTION AND DEVELOPMENT** (continued)

In the selection and development of projects funded pursuant to the School Facilities Program of 1998 (Proposition 1A) as contained in Education Code 17070.10-17077.10, the Superintendent or designee shall:

1. Determine whether the proposed site is free of toxic contamination by ensuring that a Phase I environmental assessment and/or preliminary endangerment assessment is conducted as required by law (Education Code 17213.1)

The Superintendent or designee shall ensure that the preliminary endangerment assessment is made available for public review and comment in accordance with Education Code 17213.1.

2. Annually submit a summary report of expenditures to the State Allocation Board in accordance with law (Education Code 17076.10)
3. Include in the plans a hard-wired connection to a public switched telephone network or utilization of wireless technology (Education Code 17077.10)
4. Establish a participation goal of at least three percent, per year, of the overall dollar amount expended each year by the district for disabled veteran business enterprises (Education Code 17076.11)

**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*

15300-15327 *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.opsc.dgs.ca.gov>

**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)

*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*

65352.2 *Level 2 funding notification requirement*

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.opsc.dgs.ca.gov>*

**DEVELOPER FEES**

**Level 1 Funding: Residential, Commercial and Industrial Construction**

Before taking action to establish, increase or impose developer fees, the Governing Board shall conduct a fee justification study which: (Government Code 66001)

1. Identifies the purpose of the fee and the use to which the fee will be put
2. Determines a reasonable relationship between the fee's use and the type of development project for which the fee is imposed
3. Determines a reasonable relationship between the need for the public facility and the type of development project for which the fee is imposed
4. Determines a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributed to the development for which the fee is imposed

**Level 1 Funding: Notice and Hearing Requirements**

Before levying developer fees or prior to increasing an existing fee, the Board shall schedule a public hearing. The Superintendent or designee shall mail notice of the time and place of the meeting, including a general explanation of the matter to be considered and a statement that the required data are available, at least 14 days prior to the meeting to any interested party who has requested such information. Any written request for mailed notices shall be valid for one year from the date on which it is filed unless a renewal request is filed.

Renewal requests for mailed notices shall be filed on or before April 1 of each year. The district may charge a fee reasonably related to the cost of providing these materials. (Government Code 66016)

Information on the anticipated amount of fees, other available funds and funding sources, and the estimated cost of planning, land acquisition and school construction shall be made available to the public at least 10 days before the hearing. (Government Code 66016)

At the hearing, the Board shall adopt a resolution for the levying of the developer fees. (Government Code 66016) The resolution shall set forth:

1. The purpose of the fee and the public improvement(s) that the fee will be used to finance (Government Code 66006)
2. The Board's findings of reasonable relationship which justify the fees pursuant to Government Code 66001

**DEVELOPER FEES** (continued)

3. The district's determination of either of the following conditions which allow collection of the fees at the time when building permits are issued: (Government Code 66007)
  - a. That the fees are to reimburse the district for previous expenditures
  - b. That the fees shall be collected for public improvements or facilities for which an account has been established, funds have been appropriated and the district has adopted a proposed construction schedule or plan

**Level 2 Funding: Residential Construction**

In order to impose residential construction fees within the limits of Government Code 65995.5, the Board shall: (Government Code 65995.5)

1. Make a timely application to the State Allocation Board for new construction funding for which it is eligible
2. Conduct and adopt a school facility needs analysis pursuant to Government Code 65995.6
3. Satisfy at least two of the requirements set forth in Government Code 65995.5(b)(3)(A-D) (Government Code 65995.5)

**Level 2 Funding: Notice and Hearing Requirements**

At least 45 days prior to completion of the school facility needs analysis, the Board shall notify and provide copies of the analysis to the planning commission or agency of the city or county with land use jurisdiction within the district. Upon request of either party, the Board and city or county shall meet within 15 days following notification. (Government Code 65352.2)

*(cf. 7131 - Relations with Local Agencies)*

The Board shall adopt the school facility needs analysis by resolution at a public hearing. (Government Code 65995.6)

This analysis may not be adopted until the analysis, in its final form, has been made available to the public for a period of not less than 30 days. Prior to its adoption, the public shall have the opportunity to review and comment on the analysis and the Board shall respond to written comments it receives regarding the analysis. (Government Code 65995.6)

**DEVELOPER FEES** (continued)

During the period of public review, the analysis shall be provided to the local agency responsible for land use planning for its review and comment. (Government Code 65995.6)

No less than 30 days prior to the hearing, notice of the time and place of the hearing, including the location and procedure for viewing or requesting a copy of the proposed analysis, shall be published in at least one newspaper of general circulation within the jurisdiction of the district. If there is no paper of general circulation, the notice shall be posted in at least three conspicuous places within the district's jurisdiction not less than 30 days prior to the hearing. (Government Code 65995.6)

In addition, the Superintendent or designee shall mail a copy of the needs analysis not less than 30 days prior to the hearing to any person who has made a written request if the written request was made 45 days prior to the hearing. The district may charge a fee reasonably related to the cost of providing these materials. (Government Code 65995.6)

The school facility needs analysis may be revised at any time. The revision is subject to the same conditions and requirements applicable to the adoption of the analysis. The existing school building capacity shall be recalculated as part of any revision to the needs analysis. (Government Code 65995.6)

The fees authorized by Government Code 65995.6 and Government Code 65995.7 shall be adopted by resolution as part of the adoption or revision of the school facilities needs analysis. The fees shall take effect immediately upon adoption of the resolution and may not be effective for more than one year. (Government Code 65995.6)

**Level 3 Funding: Residential Construction**

When Level 3 fees are authorized by law and the district qualifies for Level 2 funding pursuant to Government Code 65995.5, the Board may assess a fee on residential construction pursuant to the requirements of Government Code 65995.7.

**Level 3 Funding: Notice and Hearing Requirements**

Pursuant to Government Code 65995.7, the notice and hearing requirements, resolution requirement, and term of effectiveness for Level 3 funding shall be the same as the requirements for Level 2 funding as specified above.

**All Developer Funding Fees: Additional Requirements**

The district shall send a copy of any resolution adopting or increasing developer fees to the city and county, accompanied by all relevant supporting documentation and a map indicating the boundaries of the area subject to the fee. (Education Code 17621)

**DEVELOPER FEES** (continued)

In cooperation with local governmental agencies issuing building permits, the Superintendent or designee shall establish a means by which all of the following shall be accomplished:

1. The project applicant shall receive a written statement of the amount of the fees and notification that the 90-day approval period during which the applicant may protest has begun. (Government Code 66020)
2. The Superintendent or designee shall receive and retain acknowledgment that the above notification was received.
3. Before a permit is issued and upon the payment of the applicable fee or requirement, the Board shall immediately certify that the fee has been paid or that the district has determined that the fee does not apply to the development project. (Education Code 17620)

Developer fees shall be deposited, invested, accounted for and expended pursuant to Government Code 66006. Developer fees shall be deposited in a separate capital facilities account, except for temporary investments allowed by law, and shall be used only for the purpose for which they were collected. Interest income earned by the capital facilities account shall also be deposited in that account and used only for the purpose for which the fee was originally collected. (Government Code 66006)

For each separate account so established, the Superintendent or designee shall, within 180 days after the last day of each fiscal year, make available to the public the following information for the fiscal year: (Government Code 66006)

1. A brief description of the type of fee in the account or fund
2. The amount of the fee
3. The beginning and ending balance of the account or fund
4. The amount of the fees collected and the interest earned
5. An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees
6. An identification of an approximate date by which the construction of the public improvement will commence if the district determines that sufficient funds have been collected to complete financing on an incomplete public improvement

**DEVELOPER FEES** (continued)

7. A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and, in the case of an interfund loan, the date on which the loan will be repaid, and the rate of interest that the account or fund will receive on the loan
8. The amount of refunds made pursuant to Government Code 66001(e) and any allocations made pursuant to Government Code 66001(f)

The Board shall review the above information at the first regularly scheduled public Board meeting which occurs 15 days after the information is made available to the public. Fifteen-day prior notice of this meeting shall be mailed to any parties filing a written request pursuant to Government Code 66006. (Government Code 66006)

In addition to discharging its public disclosure duties regarding the levying of developer fees, the Board shall, for the fifth fiscal year after the first deposit into the account or fund and every five years thereafter, make all of the following findings with respect to the portion of the account or fund that remains unexpended, whether committed or uncommitted: (Government Code 66001)

1. Identify the purpose to which the fee is to be put
2. Demonstrate a reasonable relationship between the fee and the purpose for which it is charged
3. Identify all sources and amounts of funding anticipated to complete financing in incomplete improvements originally identified
4. Designate the approximate dates on which the funding referred to in item #3 is expected to be deposited into the appropriate account or fund

When sufficient funds have been collected to complete the financing of public improvements but such improvements remain incomplete, the district shall, within 180 days of the date that a determination of sufficient funding was made, either identify an approximate date by which construction will begin or refund the unexpended revenues in accordance with Government Code 66001. (Government Code 66001)

**Appeals Process for Protests by Developers**

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)

**DEVELOPER FEES** (continued)

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.

At the time of the imposition of the fee, the Superintendent or designee shall provide each project applicant written notice that the 90-day period in which the applicant may initiate a protest has begun. 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. (Government Code 66020)



**GENERAL OBLIGATION BONDS**

The Governing Board desires to provide adequate facilities in order to enhance student learning and to help the district achieve its vision for educating district students. To that end, the Board may order an election on the question of whether bonds shall be issued for school facilities when, in the Board's judgment, it is advisable and in the best interest of district students.

*(cf. 1160 - Political Processes)*  
*(cf. 7110 - Facilities Master Plan)*  
*(cf. 7210 - Facilities Financing)*

The Board shall determine the appropriate size of the bond in accordance with law.

**Bonds Requiring 55 Percent Approval by Local Voters**

The Board may decide to pursue the authorization and issuance of bonds by approval of 55 percent majority of the voters pursuant to Article 13A, Section 1(b)(3) and Article 16, Section 18(b) of the California Constitution. If two-thirds of the Board agree to such an election, the Board shall vote to adopt a resolution to incur bonded indebtedness if approved by a 55 percent majority of the voters. (Education Code 15266)

The bond election may only be ordered at a primary or general election, a statewide special election, or a regularly scheduled local election at which all of the electors of the school district are entitled to vote. (Education Code 15266)

Bonded indebtedness incurred by the district shall be used only for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities. (California Constitution Article 13A, Section 1(b)(3) and 1(b)(3)(A))

The proposition approved by the voters shall include the following accountability requirements: (California Constitution Article 13A, Section 1(b)(3))

1. A requirement that proceeds from the sale of the bonds be used only for the purposes specified above, as detailed in California Constitution Article 13A, Section 1(b)(3), and not for any other purposes including teacher and administrative salaries and other school operating expenses
2. A list of specific school facility projects to be funded and certification that the Board has evaluated safety, class size reduction, and information technology needs in developing that list

*(cf. 0440 - District Technology Plan)*  
*(cf. 0450 - Comprehensive Safety Plan)*  
*(cf. 6151 - Class Size)*

**GENERAL OBLIGATION BONDS** (continued)

3. A requirement that the Board conduct an annual, independent performance audit to ensure that the funds have been expended only on the specific projects listed
4. A requirement that the Board conduct an annual, independent financial audit of the proceeds from the sale of the bonds until all of those proceeds have been expended for the school facilities projects

**Bonds Requiring 66.67 Percent Approval by Local Voters**

Bonds shall be sold to raise money for the following purposes: (Education Code 15100)

1. Purchasing school lots
2. Building or purchasing school buildings
3. Making alterations or additions to school building(s) other than as may be necessary for current maintenance, operation, or repairs
4. Repairing, restoring, or rebuilding any school building damaged, injured, or destroyed by fire or other public calamity
5. Supplying school buildings and grounds with furniture, equipment, or necessary apparatus of a permanent nature
6. Permanently improving school grounds
7. Refunding any outstanding valid indebtedness of the district, evidenced by bonds or state school building aid loans
8. Carrying out sewer or drain projects or purposes authorized in Education Code 17577
9. Purchasing school buses with a useful life of at least 20 years
10. Demolishing or razing any school building with the intent to replace it with another school building, whether in the same location or in any other location

Except for refunding any outstanding indebtedness, any of the purposes listed above may be united and voted upon as a single proposition by order of the Board and entered into the minutes. (Education Code 15100)

**GENERAL OBLIGATION BONDS (continued)**

*Legal Reference:*

EDUCATION CODE

7054 *Use of district property, campaign purposes*

15100-15254 *Bonds for school districts and community college districts*

15264-15288 *Strict Accountability in Local School Construction Bonds Act of 2000*

17577 *Sewers and drains*

47614 *Charter school facilities*

ELECTIONS CODE

324 *General election*

328 *Local election*

341 *Primary election*

348 *Regular election*

356 *Special election*

357 *Statewide election*

1302 *School district election*

15372 *Elections official certificate*

GOVERNMENT CODE

1090-1099 *Prohibitions applicable to specified officers*

1125-1129 *Incompatible activities*

8855 *California Debt and Investment Advisory Commission*

53580-53595.5 *Bonds*

54952 *Definition of legislative body, Brown Act*

CALIFORNIA CONSTITUTION

Article 13A, Section 1 *Tax limitation*

Article 16, Section 18 *Debt limit*

COURT DECISIONS

*San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School District*, (2006) 139 Cal.App.4<sup>th</sup> 1356

ATTORNEY GENERAL OPINIONS

88 *Ops.Cal.Atty.Gen.* 46 (2005)

87 *Ops.Cal.Atty.Gen.* 157 (2004)

*Management Resources:*

WEB SITES

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

CSBA, *District and Financial Services, Proposition 39 Bond Performance Audit Program:*

<http://www.csba.org/ds/prop39.cfm>

California Department of Education: <http://www.cde.ca.gov>

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

**GENERAL OBLIGATION BONDS**

**Cautionary Notice:** As added and amended by SBX3 4 (Ch. 12, Third Extraordinary Session, Statutes of 2009), ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009), and SB 70 (Ch. 7, Statutes of 2011), Education Code 42605 grants districts flexibility in "Tier 3" categorical programs. The Yreka Union School District has accepted this flexibility and thus is deemed in compliance with the statutory or regulatory program and funding requirements for these programs for the 2008-09 through 2014-15 fiscal years. As a result, the district may temporarily suspend certain provisions of the following policy or regulation that reflect these requirements. For further information, please contact the Superintendent or designee.

**Election Notice**

The Superintendent or designee shall ensure that election notice and ballot requirements are satisfied in accordance with Education Code 15120-15126 and 15272.

**Certificate of Results**

If the certificate of election results received by the Governing Board shows that the appropriate majority of the voters are in favor of issuing the bonds, the Board shall record that fact in its minutes. The Board shall then certify to the county board of supervisors all proceedings it had in connection with the election results. (Education Code 15124, 15274)

**Resolution Regarding Sale of Bonds**

Following passage of the bond measure by the appropriate majority of voters, the Board shall pass a resolution to issue the sale of bonds. The resolution shall prescribe the total amount of bonds to be sold and may also prescribe the maximum acceptable interest rate, not to exceed eight percent, and the time(s) when the whole or any part of the principal of the bonds shall be payable, which shall not be more than 25 years from the date of the bonds. (Education Code 15140)

Prior to the sale of bonds, the Board shall adopt, as an agenda item at a public meeting, another resolution, which includes all of the following items: (Education Code 15146)

1. Express approval of the method of sale
2. Statement of the reasons for the method of sale selected
3. Disclosure of the identity of the bond counsel, and the identities of the bond underwriter and the financial adviser if either or both are utilized for the sale, unless these individuals have not been selected at the time the resolution is adopted, in which case the Board shall disclose their identities at the public meeting occurring after they have been selected
4. Estimates of the costs associated with the bond issuance

**GENERAL OBLIGATION BONDS** (continued)

After the sale, the Board shall be presented with the actual cost information and shall disclose that information at the Board's next scheduled meeting. The Board shall ensure that an itemized summary of the costs of the bond sale and all necessary information and reports regarding the sale are submitted to the California Debt and Investment Advisory Commission. (Education Code 15146)

**Citizens' Oversight Committee**

If a district general obligation bond requiring a 55 percent majority is approved by the voters, the Board shall appoint an independent citizens' advisory oversight committee. This committee shall be appointed within 60 days of the date that the Board enters the election results in its minutes pursuant to Education Code 15274. (Education Code 15278)

*(cf. 1220 - Citizen Advisory Committees)*

*(cf. 9324 - Minutes and Recordings)*

The citizens' oversight committee shall consist of at least seven members including, but not limited to: (Education Code 15282)

1. One member active in a business organization representing the business community located within the district
2. One member active in a senior citizens organization
3. One member active in a bona fide taxpayers' organization
4. One member who is a parent/guardian of a child enrolled in the district
5. One member who is a parent/guardian of a child enrolled in the district and is active in a parent-teacher organization, such as the Parent Teacher Association or school site council

*(cf. 0420 - School Plans/Site Councils)*

*(cf. 1230 - School-Connected Organizations)*

No employee, official (board member), vendor, contractor, or consultant of the district shall be appointed to the citizens' oversight committee. (Education Code 15282)

Members of the citizens' oversight committee shall serve for a term of two years without compensation and for no more than two consecutive terms. (Education Code 15282)

**GENERAL OBLIGATION BONDS** (continued)

The purpose of the citizens' oversight committee shall be to inform the public concerning the expenditure of bond revenues. The committee shall actively review and report on the proper expenditure of taxpayers' money for school construction and shall convene to provide oversight for, but not limited to, the following: (Education Code 15278)

1. Ensuring that bond revenues are expended only for the purposes described in Article 13A, Section 1(b)(3) of the California Constitution including the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities (Education Code 15278)
2. Ensuring that, as prohibited by Article 13A, Section 1(b)(3)(A) of the California Constitution, no funds are used for any teacher and administrative salaries or other school operating expenses (Education Code 15278)
3. Ensuring that the annual, independent performance and financial audits required by Article 13A, Section 1(b)(3)(C) and (D) of the California Constitution are issued in accordance with the U.S. Comptroller General's Government Auditing Standards for performance and financial audits (Education Code 15286)

*(cf. 3460 - Financial Reports and Accountability)*

In furtherance of its purpose, the committee may engage in any of the following activities: (Education Code 15278)

1. Receiving and reviewing copies of the annual, independent performance and financial audits required by Article 13A, Section 1(b)(3)(C) and (D) of the California Constitution
2. Inspecting school facilities and grounds to ensure that bond revenues are expended in compliance with the requirements of Article 13(A), Section 1(b)(3) of the California Constitution
3. Receiving and reviewing copies of any deferred maintenance proposals or plans developed by the district, including any reports required by Education Code 17584.1
4. Reviewing efforts by the district to maximize bond revenues by implementing cost-saving measures including, but not limited to, the following:
  - a. Mechanisms designed to reduce the costs of professional fees
  - b. Mechanisms designed to reduce the costs of site preparation

**GENERAL OBLIGATION BONDS** (continued)

- c. Recommendations regarding the joint use of core facilities

*(cf. 1330.1 - Joint Use Agreements)*

- d. Mechanisms designed to reduce costs by incorporating efficiencies in school site design
- e. Recommendations regarding the use of cost-effective and efficient reusable facility plans

*(cf. 7110 - Facilities Master Plan)*

The Board shall, without expending bond funds, provide the citizens' oversight committee with any necessary technical assistance and shall provide administrative assistance in furtherance of the committee's purpose and sufficient resources to publicize the committee's conclusions. (Education Code 15280)

All oversight committee proceedings shall be open to the public and noticed in the same manner as proceedings of the Board. Committee meetings shall be subject to the provisions of the Ralph M. Brown Act. (Education Code 15280; Government Code 54952)

*(cf. 9320 - Meetings and Notices)*

The oversight committee shall issue regular reports, at least once a year, on the results of its activities. Minutes of the proceedings and all documents received and reports issued shall be a matter of public record and shall be made available on the district's web site. (Education Code 15280)

*(cf. 1340 - Access to District Records)*

Members of the oversight committee shall be subject to prohibitions regarding incompatibility of office pursuant to Government Code 1125-1129 and financial interest in contracts pursuant to Government Code 1090-1098. (Education Code 15282)

*(cf. 9270 - Conflict of Interest)*

**Reports**

Within 30 days after the end of each fiscal year, the Board shall submit to the County Superintendent of Schools a report concerning any bond election(s) containing the following information: (Education Code 15111)

1. The total amount of the bond issue, bonded indebtedness, or other indebtedness involved

**GENERAL OBLIGATION BONDS** (continued)

2. The percentage of registered electors who voted at the election
3. The results of the election, with the percentage of votes cast for and against the proposition



**NAMING OF FACILITY**

The Governing Board shall name district schools and other district-owned or leased buildings, grounds, and facilities in recognition of:

1. Individuals, living or deceased, and entities that have made outstanding contributions, including financial contributions, to the school community
2. Individuals, living or deceased, who have made contributions of statewide, 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)*

Any name adopted for any new school shall not be so similar to the name of any existing district school as to result in confusion to members of the community.

Before adopting any proposed name, the Board shall hold a public hearing at which members of the public will be given an opportunity to provide input.

*(cf. 9320 - Meetings and Notices)*

When naming or renaming a district school, building, or facility, the Board may specify the duration for which the name shall be in effect.

**Memorials**

Upon request, the Board shall consider planting commemorative trees, erecting monuments, or dedicating buildings, parts of buildings, athletic fields, gardens, or other district facilities, in memory of deceased students, staff members, community members, and benefactors of the district.

**Naming Rights**

The Board may grant to any person or entity the right to name any district building or facility. In doing so, the Board shall enter into a written agreement which shall:

1. Specify the benefits to the district from entering into the agreement
2. State the roles and responsibilities of the parties to the agreement, including whether or not the Board shall retain the power to approve any proposed name

**NAMING OF FACILITY** (continued)

3. Provide details related to the naming right granted, including the building, grounds, or facility involved and the duration for which the name shall be in effect
4. Prohibit any message, image, or other depiction that advocates or endorses the use of drugs, tobacco, or alcohol, encourages unlawful discrimination against any person or group, or promotes the use of violence or the violation of any law or district policy

*(cf. 0410 - Nondiscrimination in District Programs/Activities)*

*(cf. 1325 - Advertising/Promotions)*

*(cf. 3290 - Gifts, Grants and Bequests)*

5. Reserve the authority to terminate the naming right if it determines that the grantee, subsequent to receiving the naming right, has engaged in any of the prohibited acts stated in item #4 above or other criminal or unlawful acts that might bring the district into disrepute

*Legal Reference:*

EDUCATION CODE

*35160 Authority of governing boards*