

CONCEPTS AND ROLES

The Board of Trustees 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
2. Direct the preparation and updating of the facilities master plan

CONCEPTS AND ROLES (continued)

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 Board of Trustees recognizes the importance of long-range planning for school facilities in order to address changes in student enrollment, teacher housing needs, and the district's educational program. The Superintendent or designee shall develop, for Board approval, a master plan for district facilities which describes the district's anticipated short- and long-term facilities needs and priorities.

Plan Development

The district's facilities master plan shall be based on an assessment of the condition and adequacy of existing facilities, a projection of future enrollments, and alignment of facilities with the district's vision for the instructional program.

To solicit broad input into the planning process, the Superintendent or designee may establish a facilities advisory committee consisting of staff, parents/guardians, and business, local government, and other community representatives. The Superintendent or designee shall ensure that the public is informed of the need for construction and modernization of facilities and of the district's plans for facilities.

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 the commission or agency 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)

The master plan shall be regularly reviewed and updated as necessary to reflect changes in the educational program, existing facilities, finances, or demographic data.

Plan Components

The facilities master plan shall include:

1. A statement of purpose, including district goals, philosophy, and related policies

FACILITIES MASTER PLAN (continued)

2. A description of the planning process
3. Demographics of the community, such as economic trends, migration patterns, employment base, residential base, socioeconomic makeup, historical school enrollments, and inventory of physical resources and needs
4. A description of the educational program, such as grade-level organization, class size, staffing patterns, technology plans, special programs and support services, and other educational specifications
5. Analysis of the safety, adequacy, and equity of existing facilities and potential for expansion, including the adequacy of classrooms, school cafeterias and food preparation areas, physical activity areas, playgrounds, parking areas, and other school grounds
6. Site selection criteria and process
7. Development of a capital planning budget and identification of potential funding sources
8. Policy for reviewing and updating the plan

Planning shall ensure that school facilities meet the following minimum standards: (5 CCR 14001)

1. Are aligned with the district's educational goals and objectives
2. Provide for maximum site enrollment at school facilities
3. Are located on a site that meets California Department of Education standards as specified in 5 CCR 14010
4. Are designed for the environmental comfort and work efficiency of the occupants
5. Are designed to require a practical minimum of maintenance
6. Are designed to meet federal, state, and local statutory requirements for structure, fire, and public safety
7. Are designed and engineered with flexibility to accommodate future need

Plans for the design and construction of new school facilities shall also meet the standards described in 5 CCR 14030, the California Green Building Standards Code, Title 24, Part 11 of the California Code of Regulations ("CALGreen"), the Americans with Disabilities Act

FACILITIES MASTER PLAN (continued)

(ADA) pursuant to 42 USC 12101-12213, and any other requirements applicable to the funding source and type of project.

However, plans for residential housing, which includes any building used or intended to be used by the district as a personal residence by a teacher or employee of the district, is not considered to be a "school building" and does not require approval by the Department of General Services regarding earthquake safety and/or the ADA. (Education Code 17283.5; Government Code 4454.5)

To facilitate the efficient use of public resources when planning for new construction or modernization of school facilities, the district may consider designs that facilitate joint use of the facility with a local governmental agency, public postsecondary institution, or nonprofit organization.

State	Description
2 CCR 1859-1859.199	<i>Leroy F. Greene School Facilities Act</i>
24 CCR 101	<i>California Building Standards Code</i>
5 CCR 14001	<i>Minimum standards for school facilities</i>
5 CCR 14010	<i>Procedure for site acquisition</i>
5 CCR 14030-14036	<i>Standards, planning, and approval of school facilities</i>
Ed. Code 16011	<i>Long-range comprehensive master plan</i>
Ed. Code 16322	<i>California Department of Education services</i>
Ed. Code 17017.5	<i>Approval of applications for projects</i>
Ed. Code 17070.10-17079.30	<i>Leroy F. Greene School Facilities Act</i>
Ed. Code 17251-17256	<i>CDE powers concerning buildings and building sites</i>
Ed. Code 17260-17268	<i>Plans and specifications for school facilities</i>
Ed. Code 17280-17317	<i>Field Act; approval of plans and supervision of construction</i>
Ed. Code 17283.5	<i>School building does not include residential housing</i>
Ed. Code 17365-17374	<i>Field Act; fitness for occupancy; liability of board members</i>
Ed. Code 17405	<i>Relocatable structures; lease requirements</i>
Ed. Code 35275	<i>New school planning; cooperation with recreation and park authorities</i>
Ed. Code 4454.5	<i>Approval of plans and specifications; exemption of residential housing</i>
Gov. Code 53090-53097.5	<i>Regulation of local agencies by counties and cities</i>
Gov. Code 65352.2	<i>Communicating and coordinating of school sites</i>
Gov. Code 65995.6	<i>School facilities needs analysis</i>
H&S Code 53570-53574	<i>Teacher Housing Act of 2016</i>
28 CFR 35.101-35.190	<i>Americans with Disabilities Act</i>
42 USC 12101-12213	<i>Americans with Disabilities Act</i>
Management Resources	Description
CDE Publication	<i>Educational Specifications: Linking Design of School Facilities to Educational Program, 1997</i>
CDE Publication	<i>Guide for the Development of a Long-Range Facilities Plan, 1986</i>
CDE Publication	<i>Schools of the Future Report, September 2011</i>
CSBA Publication	<i>Maximizing Opportunities for Physical Activity Through Joint Use of Facilities, Policy Brief, February 2010</i>
CSBA Publication	<i>Facilities Master Planning, Fact Sheet, November 2007</i>
Office of Public School Construction Publication	<i>School Facility Program Handbook, January 2019</i>

FACILITIES MASTER PLAN (continued)

<i>Office of Public School Construction Publication</i>	<i>A Brief Overview of the School Facility Program, May 2016</i>
<i>State Allocation Board Publication</i>	<i>Public School Construction Cost Reduction Guidelines, 2000</i>
<i>Website</i>	<i>CSBA District and County Office of Education Legal Services</i>
<i>Website</i>	<i>Department of General Services, Office of Public School Construction</i>
<i>Website</i>	<i>California Department of Education</i>
<i>Website</i>	<i>CSBA</i>

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. (Education Code [17291](#))

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>

(2/99 3/07) 3/16

RELATIONS WITH LOCAL AGENCIES

The Board of Trustees 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

The Board of Trustees desires to provide school facilities that support the educational program and meet all applicable safety and design standards. When required by law, the Board shall employ or contract with a licensed and certified architect and/or structural engineer to design and supervise the construction of district schools and other facilities.

(cf. [7110](#) - *Facilities Master Plan*)

The architect and/or structural engineer shall be responsible for preparing all construction plans, specifications, and estimates and for the observation of the work of construction. (Education Code [17302](#))

To ensure compliance with state design and safety standards, preliminary and final plans for any state-funded school facility project, including Board-approved educational specifications for school design when necessary, shall be submitted to the California Department of Education and the Department of General Services, Division of the State Architect. (Education Code [17267](#); 5 CCR [14030-14032](#))

The Superintendent or designee shall devise a competitive process for the selection of architects, structural engineers, and other design professionals that is based on demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. For each project, the Superintendent or designee shall recommend architectural and engineering firms to the Board for approval. 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. [3311.3](#) - *Design-Build Contracts*)

Legal Reference:

EDUCATION CODE

[17070.10-17079.30](#) *Leroy F. Greene School Facilities Act, especially:*

[17070.50](#) *Conditions for apportionment*

[17250.10-17250.55](#) *Design-build contracts*

[17251](#) *School construction; duties of the California Department of Education*

[17262-17268](#) *School construction plans*

[17280-17316](#) *Approvals, especially:*

[17302](#) *Persons qualified to prepare plans, specifications and estimates and supervise construction*

[17316](#) *Contract provision regarding school district property*

[17371](#) *Limitation on liability of governing board*

BUSINESS AND PROFESSIONS CODE

[5500-5502](#) *Architecture*

5550-5558 *Architects, licensure*

[6700-6706.3](#) *Engineers*

6750-6766 *Engineers, licensure*

Legal Reference: (continued next page)

ARCHITECTURAL AND ENGINEERING SERVICES

Legal Reference: (continued)

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*

CODE OF REGULATIONS, TITLE 5

14001 *Minimum standards for school facilities*

14030-14036 *Standards, planning, and approval of school facilities*

CODE OF REGULATIONS, TITLE 24

101 et seq. California Building Standards Code

CALIFORNIA CONSTITUTION

Article 22 Architectural and engineering services

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Plan Submission Requirements for Modernization Projects, Form SFPD 4.08

Plan Submission Requirements for New Construction, Form SFPD 4.07

OFFICE OF PUBLIC SCHOOL CONSTRUCTION PUBLICATIONS

School Facility Program Handbook, January 2019

WEB SITES

American Institute of Architects California Council: <http://aiacalifornia.org>

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

Department of General Services, Division of the State Architect: <http://www.dgs.ca.gov/DSA>

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

(10/96 2/99) 10/19

Policy
adopted: January 4, 2012
revised: December 4, 2019

BIGGS UNIFIED SCHOOL DISTRICT
Biggs, California

ARCHITECTURAL AND ENGINEERING SERVICES

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. Assures 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. Evaluation of current statements of qualifications and performance data on file with the district and evaluation of statements that may be submitted by other firms regarding the proposed project
2. Discussion with at least three firms regarding anticipated concepts and the relative utility of alternative approaches for furnishing the required services
3. Selection, in order of preference, of at least three firms deemed to be the most highly qualified to provide the required services in accordance with established district criteria

The district shall negotiate a contract with the best qualified firm at compensation determined by the district to be fair and reasonable. If the district is unable to negotiate a contract with the most qualified firm, the district shall negotiate a contract with the second most qualified firm and, if unsuccessful, with the third most qualified firm. If the district is unable to negotiate a satisfactory contract with any of the selected firms, the district shall select additional firms in order of their competence and qualification and continue negotiations until an agreement is reached. (Government Code [4528](#))

ARCHITECTURAL AND ENGINEERING SERVICES

The above procedures shall not apply if the Superintendent or designee determines that the services needed are more of a technical nature and involve little professional judgment and that requiring bids would be in the public interest. (Government Code [4529](#))

(cf. [3311](#) - Bids)

Contracts shall specify that all plans, including, but not limited to, record drawings, specifications, and estimates prepared by the architect or structural engineer shall become the property of the district. The contract shall also specify terms and conditions for reuse within the district of any plans prepared by the architect or structural engineer. (Education Code [17316](#))

A contract may be awarded to a single entity for both design and construction of any school facility in excess of \$1,000,000 in accordance with AR 3311.3 - Design-Build Contracts. (Education Code [17250.20](#))

(cf. [3311.3](#) - Design-Build Contracts)

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SITE SELECTION AND DEVELOPMENT

The Board of Trustees 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.

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.

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.

Before acquiring property for a new school or an addition to an existing school site, the Board, at a public hearing, shall either evaluate the property using state site selection standards specified in 5 CCR 14010 or, if a district advisory committee was appointed to evaluate the property, receive the committee's report of findings based on those standards. (Education Code 17211, 17251)

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, including any web site posting requirements. When evaluating district projects, the CEQA guidelines shall be used.

Environmental review documents, including a draft environmental impact report, environmental impact report, negative declaration or mitigated negative declaration, and public notice of the preparation and availability of such documents, shall be posted on the district's web site. (Public Resources Code 21082.1, 21092, 21092.2)

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

SITE SELECTION AND DEVELOPMENT (continued)

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
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

<i>State</i>	<i>Description</i>
<i>14 CCR 15000-15285</i>	<i>Implementation of California Environmental Quality Act of 1970</i>
<i>5 CCR 14001-14036</i>	<i>California Department of Education: school facilities construction</i>
<i>CCP 1263.710-1263.770</i>	<i>Remediation of hazardous substances on property to be acquired by school district</i>
<i>Ed. Code 17006</i>	<i>Definition of self-certifying district</i>
<i>Ed. Code 17024</i>	<i>Prior written approval of CDE for selection of school site or construction of building</i>
<i>Ed. Code 17070.10-17077.10</i>	<i>Leroy F. Greene School Facilities Act of 1998</i>
<i>Ed. Code 17210-17224</i>	<i>School Sites; general provisions</i>
<i>Ed. Code 17240-17245</i>	<i>New Schools Relief Act</i>
<i>Ed. Code 17250.10-17250.55</i>	<i>Design-build contracts</i>
<i>Ed. Code 17251-17256</i>	<i>CDE powers concerning buildings and building sites</i>
<i>Ed. Code 17260-17268</i>	<i>Plans and specifications for school facilities</i>
<i>Ed. Code 17280-17317</i>	<i>Field Act; approval of plans and supervision of construction</i>
<i>Ed. Code 17565-17592.5</i>	<i>Board duties; management and control of school property</i>
<i>Ed. Code 35271</i>	<i>Power to acquire and construct on adjacent property</i>
<i>Ed. Code 35275</i>	<i>New school planning; cooperation with recreation and park authorities</i>
<i>Gov. Code 53094</i>	<i>Authority to render zoning ordinances inapplicable</i>
<i>Gov. Code 65402</i>	<i>Acquisition or disposition of property</i>
<i>Gov. Code 65995-65997</i>	<i>Developer fees</i>
<i>Gov. Code 66455.9</i>	<i>Written notices of proposed public school site within development; investigation and report; conditions for acquisition</i>
<i>H&S Code 44360</i>	<i>Risk assessment</i>
<i>Pub. Res. Code 21000-21177</i>	<i>California Environmental Quality Act of 1970</i>
<i>Management Resources</i>	<i>Description</i>
<i>Attorney General Opinion</i>	<i>82 Ops. Cal. Atty. Gen. 130 (1999)</i>
<i>Website</i>	<i>Governor's Office of Planning and Research</i>
<i>Website</i>	<i>Department of Toxic Substances Control</i>
<i>Website</i>	<i>Ca. Department of Education, School Site Selection & Approval Guide</i>
<i>Website</i>	<i>CSBA District and County Office of Education Legal Services</i>
<i>Website</i>	<i>Department of General Services, Office of Public School Construction</i>
<i>Website</i>	<i>California Department of Education, School Facilities</i>

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)
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. Make a written request for 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, including posting required notices to the district web site. (Public Resources Code 21000-21177)
7. Notify the California Department of Education in writing before acquiring title or leasing the site if the proposed site is within two miles of the air line of an airport runway or proposed runway. (Education Code 17215)
8. Conduct an air quality analysis pursuant to Health and Safety Code 44360 and Education Code 17213 if the proposed site is within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor 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. Submit an annual 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)

SITE SELECTION AND DEVELOPMENT (continued)

State	Description
14 CCR 15000-15285	Implementation of California Environmental Quality Act of 1970
5 CCR 14001-14036	California Department of Education: school facilities construction
CCP 1263.710-1263.770	Remediation of hazardous substances on property to be acquired by school district
Ed. Code 17006	Definition of self-certifying district
Ed. Code 17024	Prior written approval of CDE for selection of school site or construction of building
Ed. Code 17070.10-17077.10	Leroy F. Greene School Facilities Act of 1998
Ed. Code 17210-17224	School Sites; general provisions
Ed. Code 17240-17245	New Schools Relief Act
Ed. Code 17250.10-17250.55	Design-build contracts
Ed. Code 17251-17256	CDE powers concerning buildings and building sites
Ed. Code 17260-17268	Plans and specifications for school facilities
Ed. Code 17280-17317	Field Act; approval of plans and supervision of construction
Ed. Code 17565-17592.5	Board duties; management and control of school property
Ed. Code 35271	Power to acquire and construct on adjacent property
Ed. Code 35275	New school planning; cooperation with recreation and park authorities
Gov. Code 53094	Authority to render zoning ordinances inapplicable
Gov. Code 65402	Acquisition or disposition of property
Gov. Code 65995-65997	Developer fees
Gov. Code 66455.9	Written notices of proposed public school site within development; investigation and report; conditions for acquisition
H&S Code 44360	Risk assessment
Pub. Res. Code 21000-21177	California Environmental Quality Act of 1970
Management Resources	Description
Attorney General Opinion	82 Ops.Cal.Atty.Gen. 130 (1999)
Website	Governor's Office of Planning and Research
Website	Department of Toxic Substances Control
Website	Calif. Department of Education, School Site Selection and Approval Guide
Website	CSBA District and County Office of Education Legal Services
Website	Department of General Services, Office of Public School Construction
Website	California Department of Education, School Facilities

CHARTER SCHOOL FACILITIES**Definitions**

Average daily classroom attendance (ADA) or classroom ADA is ADA for classroom-based apportionment as used in Education Code 47612.5. (5 CCR 11969.2)

In-district classroom ADA is classroom ADA attributable to in-district students. *In-district students* are those charter school students who are entitled to attend a district school. Students eligible to attend district schools based on an interdistrict attendance agreement or parent/guardian employment shall be considered students of the district where they reside. (5 CCR 11969.2)

(cf. 5111.1 - District Residency)

(cf. 5117 - Interdistrict Attendance)

The district may allow a charter school to include *nonclassroom ADA* in the ADA calculation only: (5 CCR 11969.2)

1. To the extent of the instructional time that the students generating the nonclassroom-based ADA are actually in the classroom under the direct supervision of and control of a charter school employee
2. If the district and charter school agree upon the time(s) that the facilities devoted to students generating the nonclassroom-based ADA will be used

An eligible charter school *operating in the district* is one that is either currently providing public education to in-district students or has identified at least 80 in-district students who are meaningfully interested in enrolling in the charter school for the following year, regardless of whether the district is or is proposed to be the chartering entity and whether or not the charter school has a facility inside the district's boundaries. (Education Code 47614; 5 CCR 11969.2)

Furnished and equipped means the facilities include reasonably equivalent furnishing necessary to conduct classroom instruction and to provide for student services that directly support classroom instruction as found in the comparison group schools established under 5 CCR 11969.3(a) and that the facilities have equipment that is reasonably equivalent to the comparison group schools. *Equipment* means property that does not lose its identity when removed from its location and is not changed materially or consumed immediately (e.g., within one year). *Equipment* has relatively permanent value and its purchase increases the total value of the district's physical properties. Examples include furniture, vehicles, machinery, motion picture film, videotape, furnishings that are not an integral part of the building or building system, and certain intangible assets such as major software programs. Furnishings and equipment acquired for a school site with nondistrict resources are excluded when determining reasonable equivalence. (5 CCR 11969.2)

CHARTER SCHOOL FACILITIES (continued)

Determination of Reasonably Equivalent Facilities

The district shall provide facilities to a charter school sufficient to accommodate charter school students in conditions reasonably equivalent to those in which the students would be accommodated if they were attending other public schools of the district. (Education Code 47614; 5 CCR 11969.3)

Reasonably equivalent conditions shall be determined on the basis of: (5 CCR 11969.3)

1. A comparison group of district schools with similar grade levels, selected in accordance with 5 CCR 11969.3 (5 CCR 11969.3)

If a charter school's grade-level configuration is different from the configuration of the district's schools, the district is not obligated to pay for the modification of a school site to accommodate the charter school's configuration. (5 CCR 11969.3)

For high schools, the comparison group shall be the district-operated schools with similar grade levels that serve students living in the high school attendance area, as defined in Education Code 17070.15(b), in which the largest number of students of the charter school reside. The number of charter school students residing in a high school attendance area shall be determined using in-district classroom ADA projected for the fiscal year for which facilities are requested. (5 CCR 11969.3)

If a charter school was established through the conversion of an existing public school, the condition of the facility previously used by the district shall be considered to be reasonably equivalent for the first year the charter school uses the facility. (5 CCR 11969.3)

Request and Provision of Facilities: Timelines and Procedures

The following procedures shall apply to a charter school's request for and the district's provision of facilities:

1. On or before November 1, a charter school shall submit a written request for facilities to the Superintendent or designee for the next fiscal year. The request shall include: (Education Code 47614; 5 CCR 11969.9)
 - a. Reasonable projections of in-district and total ADA and in-district and total classroom ADA, based on ADA claimed for apportionment, if any, in the fiscal year prior to the fiscal year in which the facilities request is made, adjusted for expected changes in enrollment in the forthcoming fiscal year

CHARTER SCHOOL FACILITIES (continued)

Projections of in-district ADA, in-district classroom ADA, and the number of in-district students shall be broken down by grade level and by the district school that the student would otherwise attend.

- b. A description of the methodology for the projections
- c. If relevant (i.e., when a charter school is not yet open or to the extent an operating charter school projects a substantial increase in ADA), documentation of the number of in-district students meaningfully interested in attending the charter school that is sufficient for the district to determine the reasonableness of the projection, but that need not be verifiable for precise arithmetical accuracy
- d. The charter school's operational calendar
- e. Information regarding the district's school site and/or general geographic area in which the charter school wishes to locate
- f. Information on the charter school's educational program, if any, that is relevant to assignment of facilities

In submitting a facilities request, the charter school shall use a form specified by the district. The charter school shall distribute, or otherwise make available for review, the written request to interested parties, including, but not limited to, parents/guardians and school staff.

- 2. On or before December 1, the district shall review the charter school's projections of in-district and total ADA and in-district and total classroom ADA, express any objections in writing, and state the projections the district considers reasonable. If the district does not express any objections in writing and state its own projections by the deadline, the charter school's projections are no longer subject to challenge and the district shall base its offer of facilities on those projections. (5 CCR 11969.9)
- 3. On or before January 2, the charter school shall respond to any objections expressed by the district and to the district's attendance projections provided pursuant to item #2 above. The charter school shall reaffirm or modify its previous projections as necessary to respond to the information received from the district pursuant to item #2. If the charter school does not respond by January 2, the district's projections provided pursuant to item #2 are no longer subject to challenge and the district shall base its offer of facilities on those projections. (5 CCR 11969.9)

CHARTER SCHOOL FACILITIES (continued)

4. On or before February 1, the district shall prepare a written preliminary proposal regarding the space to be allocated to the charter school and/or to which the charter school is to be provided access. At a minimum, the preliminary proposal shall include: (5 CCR 11969.9)
 - a. The projections of in-district classroom ADA on which the proposal is based
 - b. The specific location(s) of the space
 - c. All conditions pertaining to the space, including a draft of any proposed agreement pertaining to the charter school's use of the space
 - d. The projected pro rata share amount and a description of the methodology used to determine that amount
 - e. A list and description of the comparison group schools used in developing the district's preliminary proposal and a description of the difference between the preliminary proposal and the charter school's request submitted pursuant to item #1 above

In evaluating and accommodating the charter school's request, the charter school's in-district students shall be given the same consideration as students in the district's schools, subject to the requirement that the facilities provided must be contiguous. (5 CCR 11969.2)

Contiguous facilities are those facilities contained on a school site or immediately adjacent to a school site. If the in-district classroom ADA of the charter school cannot be accommodated on any single school site, contiguous facilities also include facilities located at more than one site, provided that the district minimizes the number of sites assigned and considers student safety. (5 CCR 11969.2)

If none of the district-operated schools has grade levels similar to the charter school, then a contiguous facility shall be an existing facility that is most consistent with the needs of students in the grade levels served at the charter school. The district shall not be obligated to pay for the modification of an existing school site to accommodate the charter school's grade level configuration. (5 CCR 11969.3)

5. On or before March 1, the charter school shall respond in writing to the district's preliminary proposal made pursuant to item #4 above and shall express any concerns, including addressing differences between the preliminary proposal and the charter school's request, and/or make a counter proposal. (5 CCR 11969.9)

CHARTER SCHOOL FACILITIES (continued)

6. On or before April 1, having reviewed any concerns and/or counter proposals made by the charter school pursuant to item #5 above, the district shall submit, in writing, a final notification of the space offered to the charter school. The notification shall include a response to the charter school's concerns and/or counter proposal, if any. The final notification shall specifically identify: (5 CCR 11969.9)
 - a. The teaching stations, specialized classroom spaces, and nonteaching station spaces offered for the exclusive use of the charter school and the teaching stations, specialized classroom spaces, and nonteaching spaces to which the charter school is to be provided access on a shared basis with district-operated programs
 - b. Arrangements for sharing any shared space
 - c. The assumptions of in-district classroom ADA for the charter school upon which the allocation is based, and if the assumptions are different than those submitted by the charter school pursuant to item #3 above, a written explanation of the reasons for the differences
 - d. The specific location(s) of the space
 - e. All conditions pertaining to the space
 - f. The pro rata share amount
 - g. The payment schedule for the pro rata amount, which shall take into account the timing of revenues from the state and from local property taxes
7. By May 1 or within 30 days after the district notification pursuant to item #6 above, whichever is later, the charter school shall notify the district in writing whether or not it intends to occupy the offered space. (5 CCR 11969.9)

The charter school's notification may be withdrawn or modified before this deadline. After the deadline, if the charter school has notified the district that it intends to occupy the offered space, the charter school is committed to paying the pro rata share amount as identified. If the charter school does not notify the district by this deadline that it intends to occupy the offered space, then the space shall remain available for district programs and the charter school shall not be entitled to use facilities of the district in the following fiscal year. (5 CCR 11969.9)

CHARTER SCHOOL FACILITIES (continued)

8. The district and charter school shall negotiate an agreement regarding the use of and payment for the space. In addition, the district shall provide a draft of any proposed agreement pertaining to the charter school's use of the space in conjunction with the preliminary offer, as detailed in item #4 above. (5 CCR 11969.9)
 - a. At a minimum, the agreement shall contain the information included in the district's final notification, as listed in item #6 above.
 - b. The charter school shall maintain general liability insurance naming the district as an additional insured in order to indemnify the district for any damage and losses. The district shall maintain first party property insurance for the facilities allocated to the charter school.

(cf. 3530 - Risk Management/Insurance)

- c. The charter school shall comply with Board policies regarding the operations and maintenance of school facilities, furnishings, and equipment.
 - d. A reciprocal hold-harmless/indemnification provision shall be established between the district and the charter school.
 - e. The district shall be responsible for any modifications necessary to maintain the facility in accordance with Education Code 47610(d) or 47610.5.
9. The space allocated to the charter school by the district, or the space to which the district provides the charter school access, shall be furnished, equipped, and available for occupancy at least 10 working days prior to the first day of instruction of the charter school. For good cause, the district may reduce the period of availability to a period of not less than seven working days. (5 CCR 11969.9)

Space allocated for use by the charter school, subject to sharing arrangements, shall be available for the charter school's entire school year regardless of the district's instructional year or class schedule. The charter school shall not sublet or use the facilities for purposes other than those that are consistent with Board policies and district practices without permission of the Superintendent or designee. (5 CCR 11969.5)

(cf. 1330 - Use of School Facilities)

CHARTER SCHOOL FACILITIES (continued)

10. Facilities, furnishings, and equipment provided to a charter school by the district shall remain the property of the district. The district shall be responsible for projects eligible to be included in the district's deferred maintenance plan and the replacement of district-provided furnishings and equipment in accordance with district schedules and practices. The ongoing operations and maintenance of facilities, furnishings, and equipment shall be the responsibility of the charter school. (Education Code 47614; 5 CCR 11969.4)

Charges for Facilities Costs

The district shall not be required to use unrestricted general fund revenues to rent, buy, or lease facilities for charter schools. The district may charge the charter school for a pro-rata share of the district's facilities costs for the charter school's use of the facilities in accordance with 5 CCR 11969.7. (Education Code 47614)

General fund means the main operating fund of the district which is used to account for all activities except those that are required to be accounted for in another fund. (5 CCR 11969.2)

Unrestricted revenues are those funds whose uses are not subject to specific constraints and that may be used for any purposes not prohibited by law. *Restricted revenues* are those funds received from external sources that are legally restricted or that are restricted by the donor to specific purposes. Programs funded by a combination of restricted and unrestricted sources will be accounted for and reported as restricted. Funds or activities that are not restricted or designated by the donor, but rather by the Board of Trustees, shall be accounted for and reported as unrestricted. (5 CCR 11969.2)

Facilities costs are those activities concerned with keeping the physical plant open, comfortable, and safe for use and keeping the grounds, buildings, and equipment in working condition and a satisfactory state of repair. These include the activities of maintaining safety in buildings, on the grounds, and in the vicinity of schools, as well as plant maintenance and operations, facilities acquisition and construction, and facilities rents and leases. (5 CCR 11969.2)

The charter school shall report actual in-district and total ADA and classroom ADA to the district every time that the charter school reports ADA for apportionment purposes. If the charter school generates less ADA than projected, the charter school shall reimburse the district for the over-allocated space as set forth in 5 CCR 11969.8, unless the district agrees, in response to the notification by the charter school of over-allocation, to exercise its sole discretion to use the over-allocated space for district programs. (Education Code 47614; 5 CCR 11969.8, 11969.9)

CHARTER SCHOOL FACILITIES (continued)

Additional Provisions for Charter School Established at an Existing School Site

The following provisions apply only to a charter school established at an existing school site pursuant to Education Code 47605(a)(2), 52055.5, 52055.55, or 52055.650 that operated at the site in its first year pursuant to 5 CCR 11969.3(c)(2). (5 CCR 11969.3)

1. The school site, as identified in the school's charter, shall be made available to the charter school for its second year of operation and thereafter upon annual request for facilities from the district pursuant to Education Code 47614 and this administrative regulation. (5 CCR 11969.3)

The district may charge the charter school the pro-rata costs for the site pursuant to 5 CCR 11969.7 and the district shall be entitled to receive reimbursement for over-allocated space from the charter school pursuant to 5 CCR 11969.8. (5 CCR 11969.3)

If, by February 1 of its first year of operation, a charter school notifies the district that it will have over-allocated space in the following fiscal year, the space identified is not subject to reimbursement for over-allocation space pursuant to 5 CCR 11969.8 in the following year or thereafter. The district may occupy all or a portion of the space identified. (5 CCR 11969.3)

A charter school that wants to recover space surrendered to the district shall apply to the district and the district shall evaluate the application in accordance with law and this administrative regulation. (5 CCR 11969.3)

2. If, as a result of a material revision of the charter, either the location of the charter school is changed or the district approves the operation of additional sites by the charter school, then the charter school may request, and the district shall provide, facilities in accordance with the revised charter, law, and this administrative regulation. (5 CCR 11969.3)
 - a. If the charter school was established pursuant to Education Code 47605(a)(2), the district shall change the school's attendance area only if the State Board of Education (SBE) grants a waiver of the requirement in Education Code 47605(d)(1) that the charter school continuously give admission preference to students residing in the former attendance area of the school site. (5 CCR 11969.3)
 - b. If the charter school was established pursuant to Education Code 52055.5, 52055.55, or 52055.650, the district shall relocate the school or change the school's attendance area only if the SBE grants a waiver of the provision of statute binding the school to the existing site. (5 CCR 11969.3)

CHARTER SCHOOL FACILITIES (continued)

- c. If the district decides to change the charter school's attendance areas as provided in #2(a) or 2(b) above, and if the decision occurs between November 1 and June 30 and becomes operative in the forthcoming fiscal year, then the space allocated to the charter school is not subject to reimbursement for over-allocated space pursuant to 5 CCR 11969.8 in the forthcoming fiscal year. (5 CCR 11969.3)

Mediation of Disputes

If a dispute arises between the district and a charter school pursuant to Education Code 47614 or 5 CCR 11969.1-11969.10 both parties may agree to settle the dispute using mediation. Mediation consists of the following steps: (5 CCR 11969.10)

1. If both parties agree to mediation, the initiating party shall select a mediator, subject to the agreement of the responding party. If the parties are unable to agree on a mediator, the initiating party shall request the CDE to appoint a mediator within seven days to assist the parties in resolving the dispute. The mediator shall meet with the parties as quickly as possible.
2. Within seven days of the selection or appointment of the mediator, the party initiating the dispute resolution process shall send a notice to the responding party and the mediator. The notice shall include the following information:
 - a. Name, address, and phone numbers of designated representatives of the parties
 - b. A statement of the facts of the dispute, including information regarding the parties' attempts to resolve the dispute
 - c. The specific sections of the statute or regulations that are in dispute
 - d. The specific resolution sought by the initiating party
3. Within seven days of receiving the notice, the responding party shall file a written response.
4. The mediation shall be entirely informal in nature. Each party shall share copies of exhibits upon which its case is based with the other party. The relevant facts shall be elicited in a narrative fashion to the extent possible, rather than through examination and cross-examination of witnesses.
5. Any agreement reached by the parties shall be in writing and shall not set a precedent for any other case.

CHARTER SCHOOL FACILITIES (continued)

6. The mediation shall be terminated if the district and the charter school fail to meet within the specified timelines, have not reached an agreement within 15 days from the first meeting held by the mediator, or if the mediator declares an impasse.
7. The costs of the mediation shall be divided equally between the parties and paid promptly.

Legal Reference:

EDUCATION CODE

17070.10-17080 *Leroy F. Greene School Facilities Act of 1998, including:*

17078.52-17078.66 *Charter schools facility funding; state bond proceeds*

17280-17317 *Field Act*

46600 *Interdistrict attendance agreements*

47600-47616.5 *Charter Schools Act of 1992, as amended*

48204 *Residency requirements for school attendance*

GOVERNMENT CODE

53094 *Authority to render zoning ordinance inapplicable*

53097.3 *Charter school ordinances*

CODE OF REGULATIONS, TITLE 2

1859.2 *Definitions*

1859.31 *Classroom inventory*

1859.160-1859.171 *Charter school facilities program, new construction*

CODE OF REGULATIONS, TITLE 5

11969.1-11969.10 *Charter school facilities*

COURT DECISIONS

Ridgecrest Charter School v. Sierra Sands Unified School District, (2005) 130 Cal.App.4th 986

Sequoia Union High School District v. Aurora Charter High School (2003) 112 Cal.App.4th 185

ATTORNEY GENERAL OPINIONS

80 *Ops.Cal.Atty.Gen.* 52 (1997)

Management Resources:

CSBA PUBLICATIONS

Charter Schools: A Manual for Governance Teams, rev. 2008

WEB SITES

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

California Department of Education, Charter Schools Office: <http://www.cde.ca.gov/sp/cs>

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

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

FACILITIES FINANCING

The Board of Trustees recognizes its responsibility to identify the most cost-efficient and effective method of financing when purchasing or modifying district facilities. Financing may be necessary when it is determined that school facilities must be built or expanded to accommodate an increased or projected increased enrollment or 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 of funding that will best serve district needs as identified in the district's master plan for school facilities.

Funding alternatives may include, but are not be limited to:

1. Levying developer fees pursuant to Education Code 17620 and Government Code 65995-65998
2. Forming a community facilities district pursuant to Government Code 53311-53368.3, the Mello-Roos Community Facilities Act
3. Forming a school facilities improvement district pursuant to Education Code 15300-15425
4. Issuing voter-approved general obligation bonds
5. Imposing a parcel tax pursuant to Government Code 50079
6. Using lease revenues for capital outlay purposes from surplus school property
7. Applying for state facilities funding pursuant to the Leroy F. Greene School Facilities Act (Education Code 17070.10-17079.30)

The district shall provide reports, maintain records, and provide for audits of the expenditure of state facilities funds as required by law and AR 3460 - Financial Reports and Accountability. (Education Code 41024)

As applicable, the district shall comply with BP 3470 - Debt Issuance and Management.

FACILITIES FINANCING (continued)

<u>State</u>	<u>Description</u>
2 CCR 1859-1859.199	Leroy F. Greene School Facilities Act
CA Constitution Article 13D, Sections 1-6	Assessment and property related fee reform
Ed. Code 15100-17059.2	School bonds
Ed. Code 15122.5	Ballot statement
Ed. Code 15300-15327	School facilities improvement districts
Ed. Code 17000-17059.2	State School Building Lease-Purchase Law of 1976
Ed. Code 17060-17066	Joint venture school facilities construction projects
Ed. Code 17070.10-17077.10	Leroy F. Greene School Facilities Act of 1998
Ed. Code 17085-17095	State Relocatable Classroom Law of 1979
Ed. Code 17582	District deferred maintenance fund
Ed. Code 17620-17626	Levies against development projects by school districts
Ed. Code 17621	Procedures for levying fees
Gov. Code 50075-50077	Voter-approved special taxes
Gov. Code 50079	School districts; qualified special taxes
Gov. Code 53175-53187	Integrated Financing District Act
Gov. Code 53311-53368.3	Mello-Roos Community Facilities Act of 1982
Gov. Code 53753	Assessment notice and hearing requirements
Gov. Code 53753.5	Exemptions
Gov. Code 54954.1	Mailed notice to property owners
Gov. Code 54954.6	New or increased tax or assessment; public meetings and hearings; notice
Gov. Code 6061	One time notice
Gov. Code 6066	Two weeks' notice
Gov. Code 65864-65867	Development agreements
Gov. Code 65970-65980.1	School facilities development project
Gov. Code 65995-65998	Payment of fees against a development project
Gov. Code 66000-66008	Fees for development projects
Gov. Code 66016-66018.5	Development project fees
Gov. Code 66020-66025	Protests and audits
H&S Code 33445.5	Overcrowding of schools resulting from redevelopment
H&S Code 33446	School construction by redevelopment agency
Uncodified Statutes 17696-17696.98	Greene-Hughes School Building Lease-Purchase Bond Law of 1986

Management Resources Description

Attorney General Opinion 79	Ops.Cal.Atty.Gen. 149 (1996)
Court Decision	Loyola Marymount University v. Los Angeles Unified School District (1996) 45 Cal.App.4th 1256
Court Decision	Ehrlich v. City of Culver City (1996) 12 Cal.4th 854
Court Decision	Dolan v. City of Tigard (1994) 114 S.Ct. 2309
Court Decision	Canyon North Co. v. Conejo Valley Unified School District (1993) 19 Cal.App.4th 243, 23 Cal.Rptr.2d 495
Court Decision	Garlic Development Co. v. Hayward Unified School District (1992) 3 Cal.App.4th 320, 4 Cal.Rptr.2d 897
Court Decision	Nollan v. California Coastal Commission (1987) 107 S.Ct. 3141
Website	Office of Public School Construction

Policy
adopted: January 4, 2012
revised: June 23, 2021

BIGGS UNIFIED SCHOOL DISTRICT
Biggs, California

DEVELOPER FEES

In order to finance the construction or reconstruction of school facilities needed to accommodate increased student enrollment resulting 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.

Level 1 Fees: Residential, Commercial and Industrial Construction

Before taking action to establish, increase, or impose Level 1 developer fees, the 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 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 facility or portion of the facility attributed to the development for which the fee is imposed

Before levying developer fees or prior to increasing an existing fee, the Board shall hold a public hearing. The Superintendent or designee shall mail notice of the time and place of the meeting at which a public hearing shall occur, 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)

DEVELOPER FEES

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, the use to which the fee is to be put, and the public improvement(s) that the fee will be used to finance (Government Code 66001, 66006)
2. The Board's findings of reasonable relationship which justify the fees pursuant to Government Code 66001
3. If the district requires payment of the fee at a time earlier than the date of final inspection or the issuance of a certificate of occupancy, 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

In the case of any commercial or industrial development, the Board shall make findings on either an individual project basis or on the basis of categories of commercial or industrial development. Those categories may include, but are not limited to, the following uses: office, retail, transportation, communications and utilities, light industrial, heavy industrial, research and development, and warehouse. The Board shall also conduct a study to determine the impact of the increased number of employees anticipated to result from the commercial or industrial development upon the cost of providing school facilities within the district. (Education Code 17621)

Level 2 Fees: Residential Construction

In order to impose Level 2 residential construction fees within the limits of Government Code 65995.5, the Board shall, in addition to fulfilling the requirements above for Level 1 fees, undertake the following: (Government Code 65995.5)

DEVELOPER FEES

1. Make a timely application to the State Allocation Board (SAB) for new construction funding and be determined to be eligible by SAB
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)

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)

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

This analysis shall 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)

Not 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)

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)

DEVELOPER FEES

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 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 Fees: Residential Construction

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

The notice and hearing requirements, resolution requirement, and term of effectiveness for Level 3 fees shall be the same as the requirements for Level 2 fees as specified above. (Government Code 65995.7)

Use of Fees

The Board shall review information provided by the Superintendent or designee pursuant to Government Code 66006 regarding each account or fund into which developer fees have been deposited, 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

DEVELOPER FEES

- 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

<i>State</i>	<i>Description</i>
2 CCR 1859-1859.199	<i>Leroy F. Greene School Facilities Act</i>
Ed. Code 17070.10-17077.10	<i>Leroy F. Greene School Facilities Act of 1998</i>
Ed. Code 17582	<i>District deferred maintenance fund</i>
Ed. Code 17620-17626	<i>Levies against development projects by school districts</i>
Gov. Code 6061	<i>One time notice</i>
Gov. Code 6066	<i>Two weeks' notice</i>
Gov. Code 65352.2	<i>Communicating and coordinating of school sites</i>
Gov. Code 65864-65869.5	<i>Development agreements</i>
Gov. Code 65995-65998	<i>Developer fees</i>
Gov. Code 66000-66008	<i>Fees for development projects</i>
Gov. Code 66016-66018.5	<i>Development project fees</i>
Gov. Code 66020-66025	<i>Protests and audits</i>

Management Resources

Court Decision A.M. v. Albertsons, LLC, (2009) Cal.App.4th 455

Website AASA The School Superintendents Association

DEVELOPER FEES

The district shall send a copy of any Board of Trustees resolution adopting or increasing Level 1, 2, or 3 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)

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 and the Board 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

DEVELOPER FEES (continued)

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
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)

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

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 which shall include:

DEVELOPER FEES (continued)

- 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)

<i>State</i>	<i>Description</i>
<i>2 CCR 1859-1859.199</i>	<i>Leroy F. Greene School Facilities Act</i>
<i>Ed. Code 17070.10-17077.10</i>	<i>Leroy F. Greene School Facilities Act of 1998</i>
<i>Ed. Code 17582</i>	<i>District deferred maintenance fund</i>
<i>Ed. Code 17620-17626</i>	<i>Levies against development projects by school districts</i>
<i>Gov. Code 6061</i>	<i>One time notice</i>
<i>Gov. Code 6066</i>	<i>Two weeks' notice</i>
<i>Gov. Code 65352.2</i>	<i>Communicating and coordinating of school sites</i>
<i>Gov. Code 65864-65869.5</i>	<i>Development agreements</i>
<i>Gov. Code 65995-65998</i>	<i>Developer fees</i>
<i>Gov. Code 66000-66008</i>	<i>Fees for development projects</i>
<i>Gov. Code 66016-66018.5</i>	<i>Development project fees</i>
<i>Gov. Code 66020-66025</i>	<i>Protests and audits</i>

Management Resources

Court Decision A.M. v. Albertsons, LLC, (2009) Cal.App.4th 455

Website AASA The School Superintendents Association

SCHOOL FACILITIES IMPROVEMENT DISTRICTS

The Board of Trustees desires to provide adequate facilities in order to enhance student learning and to help the district achieve its vision for educating district students.

(cf. 7110 - Facilities Master Plan)
(cf. 7111 - Evaluating Existing Buildings)
(cf. 7210 - Facilities Financing)

The Board has determined 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 15100 and finds 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. The Board shall define the boundaries of the school facilities improvement district to include any portion of territory within the jurisdiction of the school district, including the option of including the territory of an existing Mello-Roos community facilities district. (Education Code 15301)

(cf. 7212 - Mello-Roos Districts)

The Superintendent or designee shall establish procedures consistent with Education Code 15100-15262 governing the financing of bonds, bond elections, and the issuance and sale of bonds.

Board Resolution of Intention

The Board may pursue the authorization and issuance of bonds by approval of either 66.67 percent majority or 55 percent majority of the voters within the proposed territory of the school facilities improvement district and shall adopt a resolution of intent to form an improvement district. In order to proceed with an election requiring a 55 percent approval of the voters, two-thirds of the Board shall agree to such an election and the district shall comply with the accountability provisions, including the requirements regarding the citizens' oversight committee, required for 55 percent approval set forth in Education Code 15264-15288. (Education Code 15266)

(cf. 7214 - General Obligation Bonds)
(cf. 9323.3 - Actions by the Board)

The Board's resolution of intention shall state all of the following: (Education Code 15320)

1. The Board's intention to form the proposed school facilities improvement district
2. The purpose for which the proposed district is to be formed
3. The estimated cost of the school facilities improvement project

SCHOOL FACILITIES IMPROVEMENT DISTRICTS (continued)

4. That any taxes levied for financing general obligation bonds issued to finance the project shall be levied exclusively upon the lands in the proposed school facilities improvement district
5. That a map showing the exterior boundaries of the proposed district is on file with the Board and available for public inspection, and that these boundaries meet the requirements of Education Code 15301
6. The time and place for a Board hearing on the formation of the proposed district
7. That any interested persons, including all persons owning lands in the district or in the proposed school facilities improvement district, may appear and be heard at the above hearing

The Board shall hold the hearing as specified in its resolution and may, at the hearing, adopt a resolution proposing modifications of its above-stated purposes. (Education Code 15322, 15323)

Notice of the hearing shall be given by publishing a copy of the resolution of intention in a newspaper of general circulation pursuant to Government Code 6066, starting at least 14 days before the hearing. No other notice shall be required. (Education Code 15321)

When hearings are concluded, the Board may, by resolution, order the formation of a school facilities improvement district with the boundaries described in the resolution. The resolution shall state the estimated cost of carrying out described purposes and shall number and designate the improvement district as specified in Education Code 15326. (Education Code 15326)

Legal Reference: (see next page)

SCHOOL FACILITIES IMPROVEMENT DISTRICTS (continued)

Legal Reference:

EDUCATION CODE

15100-15111 Purposes for authorizing bonds
15120-15262 Election procedures and issuance of bonds
15264-15288 Accountability in local school construction
15300-15425 School facilities improvement districts

GOVERNMENT CODE

6066 Two weeks' notice
50075-50077.5 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:

CSBA PUBLICATIONS

Maximizing School Board Governance: School Facilities Management, 2006

WEB SITES

CSBA: <http://www.csba.org>
CSBA, District and Financial Services, Proposition 39 Bond Performance Audit Program:
<http://www.csba.org/Services/Services/DistrictServices/Proposition39BondAudits.aspx>
California Department of Education: <http://www.cde.ca.gov>
California Office of Public School Construction: <http://www.opsc.dgs.ca.gov>
Coalition for Adequate School Housing: <http://www.cashnet.org>

Board Policy

Facilities

BP 7214(a)

GENERAL OBLIGATION BONDS

The Board of Trustees recognizes that school facilities are an essential component of the educational program and that the Board has a responsibility to ensure that the district's facilities needs are met in the most cost-effective manner possible. When the Board determines that it is in the best interest of district students, it may order an election on the question of whether bonds shall be issued to pay for school facilities.

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

The Board's decision to order a bond election, as well as its determinations regarding the appropriate amount, timing, and structure of the bond issuance, shall be consistent with law and the district's debt management policy.

(cf. 3470 - Debt Issuance and Management)

Before ordering a bond election, the Board shall obtain reasonable and informed projections of assessed valuations that take into consideration projections of assessed property valuations made by the county assessor. (Education Code 15100)

When any project to be funded by bonds will require state matching funds for any phase of the project, the ballot for the bond measure shall include a statement as specified in Education Code 15122.5, advising voters that, because the project is subject to approval of state matching funds, passage of the bond measure is not a guarantee that the project will be completed. (Education Code 15122.5)

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 agrees 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)

(cf. 9323.2 - Actions by the Board)

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 district are entitled to vote. (Education Code 15266)

Bonded indebtedness incurred by the district shall be used only for the following purposes: (California Constitution Article 13A, Section 1(b)(3) and 1(b)(3)(A))

GENERAL OBLIGATION BONDS (continued)

1. The construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities
2. The acquisition or lease of real property for school facilities
3. The refunding of any outstanding debt issuance used for the purposes specified in items #1-2 above

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

1. Certification that proceeds from the sale of the bonds will be used only for the purposes specified in items #1-2 above, and not for any other purposes including teacher and administrative salaries and other school operating expenses
2. A list of specific school facilities 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)

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

If a district general obligation bond requiring a 55 percent majority is approved by the voters, the Board shall appoint an independent citizens' oversight committee to inform the public concerning the expenditure of bond revenues as specified in Education Code 15278 and the accompanying administrative regulation. 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 Superintendent or designee shall ensure that the annual, independent performance and financial audits required pursuant to items #3-4 above are issued in accordance with the U.S. Comptroller General's Government Auditing Standards and submitted to the citizens' oversight committee at the same time they are submitted to him/her and no later than March 31 of each year. (Education Code 15286)

GENERAL OBLIGATION BONDS (continued)

The Board shall provide the citizens' oversight committee with responses to all findings, recommendations, and concerns addressed in the performance and financial audits within three months of receiving the audits. (Education Code 15280)

The Board may disband the citizens' oversight committee when the committee has completed its review of the final performance and financial audits.

Bonds Requiring 66.67 Percent Approval by Local Voters

The Board may decide to pursue the authorization and issuance of bonds by approval of 66.67 percent majority of the voters pursuant to Education Code 15100 and Article 13A, Section 1(b)(2) of the California Constitution. If a majority of the Board agrees to such an election, or upon a petition of the majority of the qualified electors residing in the district, the Board shall adopt a resolution ordering an election on the question of whether to incur bonded indebtedness if approved by a 66.67 percent majority of the voters. (Education Code 15100)

The bond election may be ordered to occur on any Tuesday, except a Tuesday that is a state holiday or the day before or after a state holiday, is within 45 days before or after a statewide election unless conducted at the same time as the statewide election, or is an established election date pursuant to Elections Code 1000 or 1500. (Education Code 15101)

Subject to limits specified in Article 13A, Section 1 of the California Constitution, bonds shall be sold to raise money for any of 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

GENERAL OBLIGATION BONDS (continued)

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 an order of the Board entered into the minutes. (Education Code 15100)

The Board may appoint a citizens' oversight committee to review and report to the Board and the public as to whether the expenditure of bond revenues complies with the intended purposes of the bond.

Certificate of Results

If the certificate of election results received by the Board shows that the appropriate majority of the voters is 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)

Resolutions Regarding Sale of Bonds

Following passage of the bond measure by the appropriate majority of voters, the Board shall pass a resolution directing the issuance and sale of bonds. In accordance with law, 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. (Education Code 15140; Government Code 53508.6)

In passing the resolution, the Board shall consider each available funding instrument, including, but not limited to, the costs associated with each and their relative suitability for the project to be financed.

Prior to the sale of bonds, the Board shall place an agenda item at a public meeting and adopt as part of the bond issuance resolution, or in a separate resolution, disclosures of the available funding instruments, the costs and sustainability of each, and all of the following information: (Education Code 15146; Government Code 53508.9)

1. Express approval of the method of sale (i.e., competitive, negotiated, or hybrid)
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

GENERAL OBLIGATION BONDS (continued)

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, including, but not limited to, bond counsel and financial advisor fees, printing costs, rating agency fees, underwriting fees, and other miscellaneous costs and expenses of issuing the bonds

When the sale involves bonds that allow for the compounding of interest, such as a capital appreciation bond (CAB), the resolution to be adopted by the Board shall include items #1-4 above as well as the financing term and time of maturity, repayment ratio, and the estimated change in the assessed value of taxable property within the district over the term of the bonds. The resolution shall be publicly noticed on at least two consecutive meeting agendas, first as an information item and second as an action item. The agendas shall identify that bonds that allow for the compounding of interest are proposed. (Education Code 15146)

Prior to adopting a resolution for the sale of bonds that allow for the compounding of interest, the Board shall be presented with the following: (Education Code 15146)

1. An analysis containing the total overall cost of the bonds that allow for the compounding of interest
2. A comparison to the overall cost of current interest bonds
3. The reason bonds that allow for the compounding of interest are being recommended
4. A copy of the disclosure made by the underwriter in compliance with Rule G-17 adopted by the federal Municipal Securities Rulemaking Board

At least 30 days prior to the sale of any debt issue, the Superintendent or designee shall submit a report of the proposed issuance to the California Debt and Investment Advisory Commission (CDIAC). (Government Code 8855)

After the sale, the Board shall be presented with the actual issuance 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 CDAIC. (Education Code 15146; Government Code 53509.5)

Bond Anticipation Notes

Whenever the Board determines that it is in the best interest of the district, it may, by resolution, issue a bond anticipation note, on a negotiated or competitive-bid basis, to raise funds that shall be used only for a purpose authorized by a bond that has been approved by the voters of the district in accordance with law. (Education Code 15150)

GENERAL OBLIGATION BONDS (continued)

Payment of principal and interest on any bond anticipation note shall be made at note maturity, not to exceed five years, from the proceeds derived from the sale of the bond in anticipation of which that note was originally issued or from any other source lawfully available for that purpose, including state grants. Interest payments may also be made from such sources. However, interest payments may be made periodically and prior to note maturity from an increased property tax if the following conditions are met: (Education Code 15150)

1. A resolution of the Board authorizes the property tax for that purpose.
2. The principal amount of the bond anticipation note does not exceed the remaining principal amount of the authorized but unissued bonds.

A bond anticipation note may be issued only if the tax rate levied to pay interest on the note would not cause the district to exceed the tax rate limitation set forth in Education Code 15268 or 15270, as applicable.

Deposit of Bond Proceeds

With regard to general obligation bonds, the district shall invest new money bond proceeds in the county treasury pool as required by law. (Education Code 15146)

*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 *Local election*

15372 *Elections official certificate*

1090-1099 *Prohibitions applicable to specified officers*

1125-1129 *Incompatible activities*

8855 *California Debt and Investment Advisory Commission*

53506-53509.5 *General obligation bonds*

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*

CODE OF FEDERAL REGULATIONS, TITLE 17

240.10b-5 *Prohibition against fraud or deceit*

240.15c2-12 *Municipal securities disclosure*

GENERAL OBLIGATION BONDS (continued)

COURT DECISIONS

San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School District (2006) 139 Cal.App.4th 1356

ATTORNEY GENERAL OPINIONS

99 Ops. Cal. Atty. Gen. 18 (2016)

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

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

Management Resources:

CSBA PUBLICATIONS

California's Challenge: Adequately Funding Education in the 21st Century, December 2015

Bond Sales - Questions and Considerations for Districts, Governance Brief, December 2012

Legal Guidelines: Use of Public Resources for Ballot Measures and Candidates, Fact Sheet, February 2011

GOVERNMENT FINANCE OFFICERS ASSOCIATION PUBLICATIONS

An Elected Official's Guide to Debt Issuance, 2nd Ed., 2016

Understanding Your Continuing Disclosure Responsibilities, Best Practice, September 2015

Investment of Bond Proceeds, Best Practice, September 2014

Selecting and Managing Municipal Advisors, Best Practice, February 2014

Debt Management Policy, Best Practice, October 2012

Analyzing and Issuing Refunding Bonds, Best Practice, February 2011

WEB SITES

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

California Debt and Investment Advisory Commission: <http://www.treasurer.ca.gov/cdiac>

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

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

Government Finance Officers Association: <http://www.gfoa.org>

Municipal Security Rulemaking Board, Electronic Municipal Market Access (EMMA):

<http://www.emma.msrb.org>

(11/12 12/13) 5/17

Policy
adopted: January 4, 2012
revised: March 4, 2013
revised: April 2, 2014
revised: June 27, 2017

BIGGS UNIFIED SCHOOL DISTRICT
Biggs, California

Administrative Regulation

Facilities

AR 7214(a)

GENERAL OBLIGATION BONDS

Election Notice

Whenever the Board of Trustees orders an election on the question of whether general obligation bonds shall be issued to pay for school facilities, the Superintendent or designee shall ensure that election notice and ballot requirements comply with Education Code 15120-15126 and 15272, as applicable.

Citizens' Oversight Committee

If a bond is approved under the 55 percent majority threshold pursuant to Proposition 39 (Article 13A, Section 1(b)(3) and Article 16, Section 18(b) of the California Constitution), then the district's 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 district student
5. One member who is a parent/guardian of a district student 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. 1220 - Citizen Advisory Committees)

(cf. 1230 - School-Connected Organizations)

Members of the citizens' oversight committee shall be subject to the conflict of interest prohibitions regarding incompatibility of office pursuant to Government Code 1125-1129 and financial interest in contracts pursuant to Government Code 1090-1099. (Education Code 15282)

(cf. 9270 - Conflict of Interest)

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

GENERAL OBLIGATION BONDS (continued)

Members of the citizens' oversight committee may serve for no more than three consecutive terms of two years each. They shall serve without compensation. (Education Code 15282)

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
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

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

(cf. 3460 - Financial Reports and Accountability)

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
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
 - c. Recommendations regarding the joint use of core facilities

GENERAL OBLIGATION BONDS (continued)

(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 district 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 citizens' 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 citizens' 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. 1113 - District and School Web Sites)

(cf. 1340 - Access to District Records)

Reports

Within 30 days after the end of each fiscal year, the district 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
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

(3/12 11/12) 12/13

GENERAL OBLIGATION BONDS (continued)

Regulation
approved: January 4, 2012
revised: March 4, 2013
revised: April 2, 2014

BIGGS UNIFIED SCHOOL DISTRICT
Biggs, California

NAMING OF FACILITY

The Board of Trustees 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