

MEMORANDUM

TO: Surplus Property “7-11” Advisory Committee
NEWPORT-MESA UNIFIED SCHOOL DISTRICT

FROM: District Legal Counsel

RE: Summary of Real Property Advisory Committee Information

This memorandum addresses both the formation and duties of an Advisory Committee to be convened for the purpose of making recommendations concerning the future use or disposition of property.

Summary of Advisory Committee

Education Code section 17388 requires that prior to the sale, lease, or rental in excess of thirty (30) days of any excess real property, a governing board of a school district must appoint an Advisory Committee to advise the governing board in the development of District-wide policies and procedures governing the use or disposition of school buildings or space in school buildings which is not needed for school purposes.¹

We recommend that the District comply with the following requirements for the convening of an Advisory Committee prior to selling or otherwise disposing of the property:

1. Formation of Advisory Committee

Education Code section 17389 states that an Advisory Committee **must consist of not less than seven (7) and not more than eleven (11) members**, and must be represented by each of the following:

- (a) The ethnic, age group, and socioeconomic composition of the District.
- (b) The business community, such as store owners, managers, or supervisors.
- (c) Landowners or renters, with preference to be given to representatives of neighborhood associations.
- (d) District teachers.
- (e) District administrators.
- (f) Parents of students.

¹ While Education Code section 17388 references “school buildings or space in school buildings,” other sections refer generally to “real property.” Accordingly, it is our opinion that school districts should comply with the “advisory committee” provisions for vacant property as well as school buildings.

- (g) Persons with expertise in environmental impact, legal contracts, building codes, and land use planning, including, but not limited to, knowledge of the zoning and other land use restrictions of the cities or cities and counties in which the surplus space and real property is located (and the Board has required one such member who has expertise in environmental impact, and another with expertise in legal contracts, building codes, land use planning, etc.).

2. Duties of an Advisory Committee

Pursuant to Education Code section 17390, an Advisory Committee must do all of the following:

- (a) Review the projected school enrollment and other data as provided by the District to determine the amount of surplus space and real property.
- (b) Establish a priority list of use of surplus space and real property that will be acceptable to the community.
- (c) Cause to have circulated throughout the attendance area a priority list of surplus space and real property and provide for hearings for community input to the committee on acceptable uses of space and real property, including the sale or lease of surplus real property for child care development purposes pursuant to Education Code section 17458.
- (d) Make a final determination of limits of tolerance of use of space and real property.
- (e) Forward to the District’s governing board a report recommending uses of surplus space and real property.

Please note that the provisions for an Advisory Committee do not set forth a minimum time period in which these duties must be completed.

Furthermore, as an extension of a legislative body (the District Governing Board), please note that the Advisory Committee must follow all Brown Act requirements.