

## **Business and Noninstructional Operations**

### **SALE OR LEASE OF DISTRICT-OWNED REAL PROPERTY**

**BP 3280**

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

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

1. A rental of property for a period of time not exceeding 30 days
2. A lease or rental of surplus property to a private educational institution for the purpose of offering summer school
3. A sale, lease, or rental of surplus property to be used for teacher or other employee housing

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

The Board shall determine whether the sale or lease of the surplus property is subject to review under the California Environmental Quality Act. (Public Resources Code 21000-21177; 14 CCR 15061-15062)

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

Before taking action to dispose of any land, the Board shall declare, at a regular meeting, supported by written findings that, under the Surplus Land Act, the land is either (1) surplus land or (2) exempt surplus land. (Government Code 54221)

However, if the land involved is exempt surplus land as specified in

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Government Code 54221(f)(1), the Board, at its discretion, may decide not to make such a declaration. Instead of the declaration, the Board may identify the land as exempt surplus land in a notice that is published and available for public comment and to the entities identified in Government Code 54222 at least 30 days before the exemption takes effect. (Government Code 54221)

Additionally, at least 30 days prior to disposing of exempt surplus land, the district shall provide the Department of Housing and Community Development (HCD) a copy of the Board's declarations and findings supporting the Board's determination that the land is exempt surplus land using the form prescribed by HCD. (Government Code 54221)

If the district has received notification from HCD that the district has violated the Surplus Land Act pursuant to Government Code 54230.5, the Board shall not pursue a final action to ratify or approve the proposed disposal of surplus land unless the Board holds an open and public meeting in compliance with Government Code 54230.7 to review and consider the substance of the notice.

When selling or leasing district real property, the Board shall comply with applicable procedures and give priority to specified public agencies as required by law. (Education Code 17230, 17464, 17485-17500; Government Code 54221-54234)

#### **Resolution of Intention to Sell or Lease**

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

The Superintendent or designee shall provide notice of the adoption of the resolution and of the time and place of the meeting that will be held to consider bids by posting copies of the resolution, signed by the Board, in three public places not less than 15 days before the date of the meeting. In addition, the notice shall be published at least once a week for three successive weeks before the meeting, in a newspaper of general circulation published in the county in

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which the district is located, if such a newspaper exists. (Education Code 17469)

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

#### **Acceptance/Rejection of Bids**

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

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

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

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

#### **Use of Proceeds**

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

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Proceeds from a sale of surplus district property shall generally be used for capital outlay or maintenance costs that the Board determines will not recur within a five-year period. Proceeds from a lease of district property with an option to purchase may be deposited into a restricted fund for the routine repair of district facilities, as defined by the State Allocation Board (SAB), for up to a five-year period. (Education Code 17462)

However, if the Board and SAB determine that the district has no anticipated need for additional sites or building construction for the next 10 years and no major deferred maintenance requirements, the proceeds from the sale or lease with an option to purchase may be deposited in a special reserve fund for the future maintenance and renovation of school sites or in the district's general fund. (Education Code 17462)

Whenever the district sells real property that was purchased, improved, or modernized with funds that were received from a state school facilities funding program within the previous 10 years, the district shall notify OPSC within 90 calendar days of the sale of the property if the proceeds from the sale are not used for capital outlay and the property is not sold to a charter school, another school district, a county office of education, or an agency that will use the property exclusively for the delivery of child care and development services. If SAB subsequently makes a finding that the sale is subject to Education Code 17462.3, the district shall return the funds to the SAB within 90 calendar days of the finding. (2 CCR 1702)

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#### *Policy Reference Disclaimer:*

*These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.*

#### **State**

14 CCR 15061-15062

2 CCR 1700-1702

Ed. Code 17219-17224

Ed. Code 17230-17234

Ed. Code 17387-17391

Ed. Code 17400-17429

Ed. Code 17430-17447

Ed. Code 17453

Ed. Code 17455-17484

Ed. Code 17462.3

#### **Description**

[Preliminary review of projects and conduct of initial study](#)

[Surplus property; use of proceeds](#)

[Acquisition of property not utilized as school site; nonuse payments; exemptions](#)

[Surplus property](#)

[Advisory committees for use of excess school facilities](#)

[Leasing of school buildings](#)

[Leasing facilities](#)

[Lease of surplus district property](#)

[Sale or lease of real property](#)

[State Allocation Board program to reclaim funds](#)

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Ed. Code 17485-17500  
Ed. Code 17515-17526  
Ed. Code 17527-17535  
Ed. Code 17536  
Ed. Code 33050  
Ed. Code 38130-38139  
Gov. Code 50001-50002  
Gov. Code 54220-54234  
Gov. Code 54950-54963  
Gov. Code 54952  
Pub. Res. Code 21000-21177

#### **Management Resources**

Attorney General Opinion  
Attorney General Publication

CA Dept of Housing & Community  
Development Pub  
California Department of Education  
Publication  
Court Decision

Office of Public School Construction  
Publication  
Website

Website

Website  
Website  
Website

#### **Cross References**

#### **Policy**

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[Surplus school playground \(Naylor Act\)](#)  
[Joint occupancy](#)  
[Joint use of district facilities](#)  
[Exchange of district property](#)  
[Nonwaivable provisions](#)  
[Civic Center Act](#)  
[Definitions](#)  
[Surplus land](#)  
[The Ralph M. Brown Act](#)  
[Legislative body; definition](#)  
[California Environmental Quality Act of 1970](#)

#### **Description**

94 Ops.Cal.Atty.Gen. 82 (2011)  
[Guidance Regarding Laws Governing School Closures  
and Best Practices for Implementation in California,  
April 2023](#)  
[Updated Surplus Land Act Guidelines, August 2024](#)  
[Best Practices Guide for Potential School Closure, 2024](#)  
  
San Lorenzo Valley Community Advocates for  
Responsible Education v. San Lorenzo Valley Unified  
School District (2006) 139 Cal.App.4th 1356  
[Unused Site Program Handbook, December 2015](#)  
  
[CSBA District and County Office of Education Legal  
Services](#)  
[Department of General Services, Office of Public School  
Construction](#)  
[Coalition for Adequate School Housing](#)  
[CSBA](#)  
[California Department of Education, School Facilities](#)

#### **Description**

[Communication With The Public](#)  
[Citizen Advisory Committees](#)  
[Citizen Advisory Committees](#)  
[Use Of School Facilities](#)  
[Use Of School Facilities](#)  
[Waivers](#)  
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[Lease-Leaseback Contracts](#)  
[Financial Reports And Accountability](#)  
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5148.2	<a href="#"><u>Before/After School Programs</u></a>
5148.2	<a href="#"><u>Before/After School Programs</u></a>
5148.3	<a href="#"><u>Preschool/Early Childhood Education</u></a>
5148.3	<a href="#"><u>Preschool/Early Childhood Education</u></a>
6020	<a href="#"><u>Parent Involvement</u></a>
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7110	<a href="#"><u>Facilities Master Plan</u></a>
7111	<a href="#"><u>Evaluating Existing Buildings</u></a>
7160	<a href="#"><u>Charter School Facilities</u></a>
7160	<a href="#"><u>Charter School Facilities</u></a>
7210	<a href="#"><u>Facilities Financing</u></a>
9130	<a href="#"><u>Board Committees</u></a>
9320	<a href="#"><u>Meetings And Notices</u></a>
9321	<a href="#"><u>Closed Session</u></a>
9321-E(1)	<a href="#"><u>Closed Session</u></a>
9321-E(2)	<a href="#"><u>Closed Session</u></a>
9323.2	<a href="#"><u>Actions By The Board</u></a>
9323.2-E(1)	<a href="#"><u>Actions By The Board</u></a>

#### **Policy**

#### **PASADENA UNIFIED SCHOOL DISTRICT**

**Adopted:** September 12, 1995

Pasadena, California

**Revised:** 2/14/12; 4/23/15; 1/25/18; 10/27/22; 03/27/2025