

Policy 3280: Sale Or Lease Of District-Owned Real Property

Status: DRAFT

Original Adopted Date: 11/27/2012 | **Last Revised Date:** 08/08/2018 | **Last Reviewed Date:** 08/08/2018

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.

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~~Prior to the sale or lease of any surplus real property, the Board shall appoint a district advisory committee prior to the sale or lease of any surplus real property to advise the Board regarding the use or disposition of schools or school building space which is not needed for school purposes. Rentals of surplus property not exceeding 30 days are exempted from this requirement. When the sale, lease, or rental of surplus property is for the purpose of teacher or other employee housing or for the offering of summer school by a private educational institution, the~~ **The** Board may elect not to appoint a district advisory committee. ~~for any of the following:~~ (Education Code ~~17387-17388, 17391~~)

1. ~~A rental of property for a period of time not exceeding 30 days~~
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2. ~~A lease or rental of surplus property to a private educational institution for the purpose of offering summer school~~
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3. ~~A sale, lease, or rental of surplus property to be used for teacher or other employee housing~~
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4. **Until July 1, 2024, a sale or lease of surplus property that has not previously operated, or was not constructed to be operated, as an early childhood education facility or a school for elementary or secondary instruction**

~~In addition, to ensure that the proposed disposition of the property conforms with any general plan adopted by the local planning agency has adopted a general plan 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)

When selling or leasing district real property, the Board shall comply with the priorities and **applicable** procedures **and give priority to** specified in applicable **public agencies as required by** law. (Education Code 17230, 17464, 17485-17499; Government Code 54222)

~~In addition, when selling real property purchased, constructed, or modernized with funds received within the past 10 years from a state school facilities funding program, the Board shall consider whether any of the proceeds from the sale will need to be returned to the State Allocation Board (SAB) pursuant to Education Code 17462.3.~~

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 which the district is located, if such a newspaper exists. (Education Code 17469)
In accordance with Education Code 17470

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 owners of the **owner from whom the district acquired the** property of the district's intent to sell it.
(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)

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. (Education Code 17462)
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 SAB, for up to a five-year period. (Education Code 17462)
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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. Proceeds (Education Code 17462)

In addition, until July 1, 2024, if district surplus property was purchased entirely with local funds, the proceeds from the sale or lease with option to purchase of district property **the property, together with any personal property**

~~located on the property, may also be deposited in a special reserve into the general fund for capital outlay or maintenance costs of the district property that and may be used for any one-time general fund purpose. Before exercising this authority, the Board determines will not recur within a five-year period. shall.~~ (Education Code 17462.17463.7)

1. Submit to SAB documents certifying that the sale of real property does not violate the provisions of a local bond act and the real property is not suitable to meet projected school construction needs for the next 10 years
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2. At a public meeting, adopt a plan for expending one-time resources from the sale or lease of the property which identifies the source and intended use of the surplus property proceeds and describes the reasons that the expenditure will not result in ongoing fiscal obligations for the district

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)

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 References

Description

2 CCR 1700	Definitions related to surplus property - https://simbli.eboardsolutions.com/SU/3KKj4JpvhNBa4zcsIshUbNrBw==
Ed. Code 17219-17224	Acquisition of property not utilized as school site; nonuse payments; exemptions - https://simbli.eboardsolutions.com/SU/ur7JgL2vMeIWTcC3SCXTPA==
Ed. Code 17230-17234	Surplus property - https://simbli.eboardsolutions.com/SU/MwTo7zVABFAcSc4Cyp5WBw==
Ed. Code 17387-17391	Advisory committees for use of excess school facilities
Ed. Code 17400-17429	Leasing of school buildings
Ed. Code 17430-17447	Leasing facilities
Ed. Code 17453	Lease of surplus district property
Ed. Code 17455-17484	Sale or lease of real property
Ed. Code 17462.3	State Allocation Board program to reclaim funds
Ed. Code 17485-17500	Surplus school playground (Naylor Act)
Ed. Code 17515-17526	Joint occupancy
Ed. Code 17527-17535	Joint use of district facilities
Ed. Code 33050	Nonwaivable provisions
Ed. Code 38130-38139	Civic Center Act
Gov. Code 50001-50002	Definitions
Gov. Code 54220-54232	Surplus land
Gov. Code 54222	Offer to sell or lease property
Gov. Code 54950-54963	The Ralph M. Brown Act
Gov. Code 54952	Legislative body, definition
Pub. Res. Code 21000-21177	California Environmental Quality Act of 1970

Management Resources References**Description**

California Department of Education Publication	Closing a School Best Practices Guide
Court Decision	San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School District, (2006) 139 Cal.App.4th 1356
Office of Public School Construction Publication	Unused Site Program Handbook, December 2015
Website	Office of Public School Construction - https://simbli.eboardsolutions.com/SU/UxUcDGusZWnedr16Dp8wuQ==
Website	Coalition for Adequate School Housing - https://simbli.eboardsolutions.com/SU/zOaL3RZeOCPBOQ9GOYjpAg==
Website	CSBA - https://simbli.eboardsolutions.com/SU/W3QxkK2FPsDsQBnMIENxGg==
Website	California Department of Education, School Facilities - https://simbli.eboardsolutions.com/SU/ATZTQPd7NwSB3FBncFeslshYA==

Cross References**Description**

1100	Communication With The Public - https://simbli.eboardsolutions.com/SU/Hywu1plusUHmPznTnAojQejslshg==
1220	Citizen Advisory Committees - https://simbli.eboardsolutions.com/SU/7obBkz3eDZdX6UuwdxRCNQ==
1220	Citizen Advisory Committees - https://simbli.eboardsolutions.com/SU/tHSbWzMDkTpvVHIUAI5KQ==
1330	Use Of School Facilities - https://simbli.eboardsolutions.com/SU/bweubRumzjCMEFsRwfPRVQ==
1330	Use Of School Facilities - https://simbli.eboardsolutions.com/SU/OsPXtQrBZmNcjhUi2mwN3Q==
1330-E(1)	Use Of School Facilities - https://simbli.eboardsolutions.com/SU/mJDGwwleQuuHMmknzSltrQ==
1431	Waivers - https://simbli.eboardsolutions.com/SU/tg2z7nhLud5eoqNkSu6ftQ==
3100	Budget - https://simbli.eboardsolutions.com/SU/LAXsliS005BXIXyCf1Nf6A==
3100	Budget - https://simbli.eboardsolutions.com/SU/0Em4vjDpAKIGfnem14N1VA==
3311.2	Lease-Leaseback Contracts - https://simbli.eboardsolutions.com/SU/SRMO1ei7iuZfByZF9RVZ4A==
3460	Financial Reports And Accountability - https://simbli.eboardsolutions.com/SU/ZZKplusS3He9zslshfzmUKeOe4slshQ==
3460	Financial Reports And Accountability - https://simbli.eboardsolutions.com/SU/URScodNCGtnDxTzhVq1RCw==
3580	District Records - https://simbli.eboardsolutions.com/SU/slshum9iqFSJwslshMnliyP5FuWQ==
5148	Child Care And Development - https://simbli.eboardsolutions.com/SU/M7im2lx660fDMP1Px10Xeg==
5148	Child Care And Development - https://simbli.eboardsolutions.com/SU/TfrOIC7GJKHpQixgwbYejA==
5148.3	Preschool/Early Childhood Education - https://simbli.eboardsolutions.com/SU/RbouLusXkTov4xyQA6MYvw==
5148.3	Preschool/Early Childhood Education - https://simbli.eboardsolutions.com/SU/O7KHYICoIBYMqFazslshUtSaA==
6020	Parent Involvement - https://simbli.eboardsolutions.com/SU/MWXILQ494aeY3920IWPxlg==

6020	Parent Involvement - https://simbli.eboardsolutions.com/SU/YMCslshYRfeMGnJYFXn2LFUFQ==
7110	Facilities Master Plan - https://simbli.eboardsolutions.com/SU/LplusUljchhmiKrmYftUrSrxg==
7111	Evaluating Existing Buildings - https://simbli.eboardsolutions.com/SU/E1SSrpluswYLLnAmSxe4Ln1tw==
7160	Charter School Facilities - https://simbli.eboardsolutions.com/SU/9ZdPeVMoaiWkVrcHdkiBrA==
7160	Charter School Facilities - https://simbli.eboardsolutions.com/SU/OOggerwUdsRB1YJEbWEeaw==
9130	Board Committees - https://simbli.eboardsolutions.com/SU/hgCK0A6mlyM1J1OIWJHEnA==
9320	Meetings And Notices - https://simbli.eboardsolutions.com/SU/WuTc0aJNMgtodRpg8eJM6A==
9323.2-E(1)	Actions By The Board - https://simbli.eboardsolutions.com/SU/OBmCx0euH7NprbtSkVpEqQ==
9323.2	Actions By The Board - https://simbli.eboardsolutions.com/SU/Olplus42Ric0ikCvuN5KkoAFQ==