

SAN MARCOS UNIFIED SCHOOL DISTRICT
BOARD POLICY

BUSINESS SERVICES

NON-INSTRUCTIONAL OPERATIONS
CONCEPT AND ROLES IN NEW CONSTRUCTION

7000
Page 1 of 2

Providing the proper school plant facilities is a major responsibility of the Governing Board and the district administration. The design of the school plant, adequacy of space and flexibility of use all combine to inhibit or enhance the instructional program.

Since school construction is costly, and buildings when constructed become a permanent part of the community to be used by large numbers of people, great care must be taken to make certain that the facilities will fully support the intended educational and community programs, that they may be altered conveniently and inexpensively to meet future educational and community needs, and that the styling of the facilities will permit them to fit harmoniously and attractively into the community.

Role of the Governing Board

The Governing Board:

1. Decides what buildings shall be built, when and where, and what equipment shall be purchased for them.
2. Decides on the additions to existing buildings or any major alterations.
3. Selects and purchases school sites for future plant expansion.
4. Selects and employs school architects.
5. Determine the method of financing that will be used.
6. Award contracts for design and construction.
7. Name schools and individual buildings.
8. Advocate school facility needs to the community.

Role of the Superintendent

The Superintendent shall:

1. Assess the district's short- and long-term facility needs.
2. Direct the preparation and updating of the facilities master plan.
3. Oversee the preparation of bids and award of contracts.

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. Act as an authorized agent with various governmental officials in the building program.

Role of Assistant Superintendent

The Assistant Superintendent - Business Services:

1. Develops educational specifications and building planning up to the time of the award of contract.
2. Is responsible for the preparation of bids, contracts and the supervision of construction in collaboration with the architect.
3. Supervises and directs the building inspectors so that their work is adequately performed.

Legal Reference:

EDUCATION CODE

17211-17224 General provisions (school sites)

17260-17268 Plans of schoolhouses

17280-17316 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

14000 Policy declaration

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

Adoption History:

Initial Review: 08/23/93

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Reviewed: 04/10/00

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Reviewed: 09/16/14

SAN MARCOS UNIFIED SCHOOL DISTRICT
BOARD POLICY

BUSINESS SERVICES

NON-INSTRUCTIONAL OPERATIONS
DETERMINING NEEDS

7100
Page 1 of 2

The Superintendent shall maintain planning procedures for school facilities. These procedures shall serve as the basis for determining facility needs that will enhance the district's educational program. Accordingly, Criteria for determining these needs shall reflect the goals and objectives of the district long-range facilities master plan.

The Superintendent may draw upon all necessary resources to assure that proposed district facilities meet the educational needs of the students and conform to all planning requirements imposed by state and local governmental agencies. These resources shall include district staff, educational consultants, architectural and engineering firms, utility companies, local governmental and planning agencies, the County Office of Education, the State Department of Education, and the State Architect.

To assure a comprehensive approach to projecting and planning needs, the following elements may be considered in planning school facilities:

1. The expanding and changing educational program of the District including the number of children to be served and their specific educational needs.
2. The impact of proposed facilities on the community and considerations regarding community use of the facilities.
3. Safety and welfare of students.
4. The relationship between existing and new facilities.
5. Community planning and zoning requirements.
6. Other site-specific information which provided guidance in the planning of facilities

Legal Reference:

EDUCATION CODE

39110-39124 *Plans of schoolhouses*

39148 *Persons qualified for the preparation of plans, specifications, and estimates and the supervision of construction*

39150 *Approval in writing from Department of General Services (construction or alteration of school facilities.)*

39210-39230 *Fitness for occupancy*

39240-39252 *Lease and lease-purchase of sites, buildings and facilities*

39275 *New school planning and design (re: cooperative relations with recreation and park authorities)*

CODE OF REGULATIONS, TITLE 5

14030(c) *Prepare educational specifications*

14031 *Submission to bureau of school facilities planning*

14032 *Plan Approval*

14033 *Planning guides "The Guide for Planning Educational Facilities"*

Adoption History:

9/13/93

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SAN MARCOS UNIFIED SCHOOL DISTRICT
BOARD POLICY

BUSINESS SERVICES

NON-INSTRUCTIONAL OPERATIONS
FACILITIES MASTER PLAN

7110
Page 1 of 3

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

The plan shall describe the district's anticipated short- and long-term facilities needs and priorities and shall be aligned with the district's educational goals. It shall also identify funding sources and timelines for building.

The San Marcos Unified School District facilities master plan shall be maintained and kept up-to-date. The plan shall reflect the short and long-term educational programming needs of the students based on the district educational goals. To assist in the accurate assessment of these needs, the plan shall include an identification of social, economic and political factors in the community together with district-level housing and funding issues which will ultimately affect the success and effectiveness of the district building and renovation program.

The plan shall incorporate population and enrollment projections based on a review of: 1) residential housing growth patterns; 2) kindergarten enrollments, and 3) student yield factors.

Concurrent with efforts to identify those demographic factors affecting school enrollment, the plan shall include an analysis of present and future design needs of the district together with an assessment of those qualitative factors that reflect the characteristics and capacity of each school facility.

Those qualitative factors considered may include, but not be limited to:

1. Maximum student capacity according to designated student-teacher ratios
2. Current student capacity based on current district program requirements
3. The district's educational goals, as well as the current and projected educational program requirements
4. Student safety and welfare
5. An evaluation of existing buildings and needs for modernization and renovation
6. State planning standards and local zoning requirements

7. Estimated costs associated with meeting the district's facility needs

The Governing Board recognizes the importance of having complete and factual information as the basis for developing and maintaining the facilities master plan. The Superintendent shall maintain procedures to encourage the cooperation of the district staff, parents, students, state and local governmental and planning agencies, and other business and community representatives in these efforts.

To ensure that proposed facilities conform with all state planning standards and local zoning requirements, the Superintendent or designee shall consult architectural and engineering firms, utility companies, local governmental and planning agencies, the county office of education, the California Department of Education, the Division of the State Architect and the Office of Public School Construction. Assistance from colleges and universities, planning laboratories and private consulting firms shall be authorized when necessary to augment district staff resources.

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

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

Legal Reference:

EDUCATION CODE

16011 Long range comprehensive master plan

16322 Department of Education services

17017.5 Approval of applications for projects

17251 Powers and duties of CDE

17260-17268 Plans of schoolhouses

17280-17317 Field Act

17365-17374 Fitness for occupancy

17405 Relocatable structures; lease requirements

35275 New school planning; cooperation with recreation and park authorities

GOVERNMENT CODE

53090-53097.5 Regulation of local agencies by counties and cities

65352.2 Communicating and coordinating of school sites

65995.6 School facilities needs analysis

CODE OF REGULATIONS, TITLE 5

14001 Minimum standards

14030-14036 Standards, planning and approval of school facilities

UNITED STATES CODE, TITLE 42

12101-12213 Americans with Disabilities Act

Management Resources:

WEB SITES

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

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

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SAN MARCOS UNIFIED SCHOOL DISTRICT
ADMINISTRATIVE PROCEDURE

BUSINESS SERVICES

NON-INSTRUCTIONAL OPERATIONS
FACILITIES MASTER PLAN

7110
Page 1 of 2

The Superintendent or designee shall prepare educational specifications for school design to support the educational program as determined by district goals, objectives, policies and community input. These specifications shall define: (Code of Regulations, Title 5, Section 14030)

1. The enrollment of the school and its grade level configuration
2. The emphasis in curriculum content or teaching methodology that influences the school design
3. The type, number, size, function, special characteristics of each space, and spatial relationships of the instructional area that are consistent with the educational program
4. Community functions that may affect the school design

Facilities plans shall conform to state standards as specified in the Code of Regulations, Title 5, Section 14030. These standards are briefly and partially summarized below:

1. Sites shall be arranged so that parent drop off, bus loading areas and staff parking are separated to allow students to enter and exit the school grounds safely.
2. Playgrounds and field areas shall be adequate to accommodate physical education requirements for the planned student enrollments.
3. Delivery and service areas shall be located so as to provide vehicle access without jeopardizing the safety of students and staff.
4. Site layouts shall have capability for expansion without substantial alterations to existing structures or playgrounds.
5. The placement of buildings shall be compatible with their functions and with the functions of other buildings.
6. Unless otherwise justified, classrooms at new school sites shall be not less than 960 square feet or shall provide not less than 30 square feet per student, with conduit/cabling and outlets related to planned and potential educational functions.
7. Specialized classrooms shall be designed to reflect the function planned for that portion of the educational program, such as small-group instruction, kindergarten, and special education.

8. Laboratories shall be designed for the planned curriculum, allowing for storage, ventilation, teacher preparation areas, proper outlets and power sources, safety equipment, proper hazardous materials management and room to move around fixed learning stations.
9. Gymnasiums and shower/locker areas shall be designed to accommodate multiple use activities in accordance with the planned enrollment, with the gymnasium secured from other parts of the campus for evening, weekend and public use purposes.
10. Auxiliary areas such as multipurpose cafeterias, administrative offices and library/media centers shall be adequately sized, allow adaptation for changing technology and communication systems, and provide security for technology and media equipment.
11. Lighting shall be designed to provide comfortable and adequate levels of illumination in each educational space.
12. Hearing conditions shall complement the educational functions by good sound control.
13. Restrooms shall be sufficient to accommodate the maximum planned enrollment and located on campus to allow for supervision.
14. Schools planned for multitrack year-round operation shall have additional space for associated storage, supplies and planning.

Plans shall also comply with the Americans with Disabilities Act and its implementing regulations, which require that facilities be designed and constructed so that they are readily accessible to and usable by individuals with disabilities. (42 USC 12131 et seq.)

Plans shall also comply with state requirements for appropriate space to accommodate before- and after-school childcare programs. (Code of Regulations, Title 5, Section 14030)

History:

Reviewed: 11/12/02

Reviewed: 08/28/06

Reviewed: 09/16/14

SAN MARCOS UNIFIED SCHOOL DISTRICT
ADMINISTRATIVE PROCEDURE

BUSINESS SERVICES

NON-INSTRUCTIONAL OPERATIONS
EVALUATING EXISTING BUILDINGS

7111
Page 1 of 2

The adequacy and design of all existing school facilities shall be evaluated periodically in terms of meeting the needs of the instructional program and fulfilling the requirements of law regarding safety and structural soundness, accessibility to the handicapped and energy conservation.

A primary consideration in evaluating existing facilities shall be the preservation of a healthful environment for students and staff as well as providing an aesthetically pleasing learning and working atmosphere.

In the evaluation of existing buildings, the installation of energy conserving devices, including insulation or the implementation of other design modifications shall be considered as permitted by law for purposes of reducing energy costs.

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)

When evaluating existing buildings, a pre-audit and post-audit of school buildings by a qualified utility company or independent energy audit firm to the extent that these services are available shall be arranged. Information provided by these services shall be used to determine the cost of retrofitting the buildings and the savings which may result from adding insulation, making design modifications or using other energy-conserving devices. The district may contract with qualified businesses capable of retrofitting these buildings and may borrow funds that do not exceed the amount of energy savings to be accumulated from the improvement of the buildings. (Education Code 17651-17653)

The district shall submit a one-time report of existing school capacity to the State Allocation Board. The district's, or where appropriate the attendance area's, existing school capacity shall be calculated pursuant to the formulas set forth in Education Code 17071.10-17071.40 and in 2 CCR 1859-1859.106.

Legal Reference:

EDUCATION CODE

17070.10-17076.10 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

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SAN MARCOS UNIFIED SCHOOL DISTRICT
BOARD POLICY

BUSINESS SERVICES

NON-INSTRUCTIONAL OPERATIONS
PARTICIPATION IN PLANNING

7120
Page 1 of 1

Procedures shall be maintained that ensure members of the school community including staff, parents, students, business and community representatives are given the opportunity to provide input into the planning process for the construction and modernization of facilities. The committee may consult local government and state planning agencies in order to ensure compliance with local and state standards.

Consultants and other appropriate resource personnel from state and local agencies may be included in the planning process in accordance with state law and in those instances, where such consultation will benefit an effective planning process.

Assistance from colleges and universities, planning laboratories and private consulting firms shall be authorized when necessary to augment district staff resources.

Legal Reference:

EDUCATION CODE

35275 New school planning and design (consulting with local government, recreation and park authorities)

39101 Powers concerning building and building sites (State Department of Education)

39117 Authority of county superintendent to approve plans

39118 Requirement of approval of State Department of Education of certain plans

39140-39156 Approval of plans and supervision of construction

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9/13/93

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SAN MARCOS UNIFIED SCHOOL DISTRICT
BOARD POLICY

BUSINESS SERVICES

NON-INSTRUCTIONAL OPERATIONS
RELATIONS WITH LOCAL AGENCIES

7131
Page 1 of 2

The Governing Board recognizes the importance of two-way communication with other local agencies in order to provide the best possible school facilities and make the best use of school construction funds. The Board shall consult and coordinate with local agencies as required by law and whenever the expertise 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 with city/county planning staff regarding the impact of land development on the district's educational programs and facility needs is maintained.

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.

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)

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.

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, especially*

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>

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SAN MARCOS UNIFIED SCHOOL DISTRICT
BOARD POLICY

BUSINESS SERVICES

NON-INSTRUCTIONAL OPERATIONS

7132

RELATIONS WITH OTHER GOVERNMENTAL UNITS

Page 1 of 2

The Governing Board recognizes the importance of collaborating and communicating with other local agencies in order to provide the best possible school facilities and to allocate facility resources in an effective and efficient manner.

The San Marcos Unified School District will cooperate with local agencies to provide the best possible school facilities and obtain the greatest efficiency and economy in the use of funds expended for school construction.

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)

In matters relating to the selection and acquisition of school sites and in the construction of school buildings, structures, or additions thereto, the District will work in the planning stages in cooperation with other county and municipal bodies such as the police, fire, health and welfare departments, planning and zoning commissions, and other relevant bodies.

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.

Special care shall be taken to work with the planning staffs of each governmental body with responsibility for approving, refusing or otherwise controlling land development. Procedures shall be maintained to ensure the exchange of accurate information between the surrounding districts and these agencies regarding the impact of development on the District's educational programs and facility needs.

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.

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 that 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 preceding 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)

Legal Reference:

EDUCATION CODE

- 10700-10703 Roads to schoolhouses (re: contracts with separate agencies)*
- 35275 New school planning and design (re: cooperative relations with local government recreation and park authorities)*
- 39011 Agreements concerning utilities furnished to school district*
- 39123 Required consultation with director of school planning by certain districts*
- 39140-39156 Approval of plans and supervision of construction (relations with Department of General Services)*
- 39244-39252 Lease and lease-purchase of sites, buildings and facilities*

CODE OF REGULATIONS, TITLE 5

- 14010 Procedure for site acquisition*

CODE OF REGULATIONS, TITLE 4

- 15000 et seq. Implementation of California Environmental Quality Act of 1970 Public Resources Code*

- 21000 et seq. California Environmental Quality Act of 1970*

GOVERNMENT CODE

- 53094 Compliance with city or county zoning ordinance*
- 65971 Notification to cities and counties; mitigation measures considered by the district, including application to OPSC*
- 65995 Repeals until 2006, cities authority to deny development projects based on determination of schools meeting demands of the development*

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- Reviewed and Adopted: 7/28/97
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- Reviewed: 08/28/06
- Reviewed: 09/16/14

SAN MARCOS UNIFIED SCHOOL DISTRICT
BOARD POLICY

BUSINESS SERVICES

NON-INSTRUCTIONAL OPERATIONS
RELATIONS WITH THE PUBLIC

7133
Page 1 of 1

The Governing Board acknowledges its responsibility to keep the public informed as to the need for new facilities, or renovating, remodeling and modernizing existing facilities. The Board also pledges to keep the public informed as to the use of any and all funds for school facilities.

The office of the Superintendent or designee will provide information to the public through such means as the Board deems necessary and desirable.

Legal Reference:

EDUCATION CODE

35160 Authority of governing boards, commencing January 1, 1976

Adoption History:

9/23/93

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SAN MARCOS UNIFIED SCHOOL DISTRICT
BOARD POLICY

BUSINESS SERVICES

NON-INSTRUCTIONAL OPERATIONS	7140
ARCHITECTURAL AND ENGINEERING SERVICES	Page 1 of 1

When construction projects for remodeling, rehabilitation, or new construction, etc., exceed \$1 million and require the services of an architect, the Superintendent shall engage these services through an established administrative procedure. In order to ensure safe construction and protect the investment of public funds, the Governing Board requires that a licensed and certified architect or structural engineer be employed to design and supervise the construction of district schools and other facilities.

The District shall devise a competitive process for the selection of architectural, landscape architectural, engineering, environmental, land surveying or construction project management services 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 shall list all firms and recommend specific architectural and engineering firms to the Board. The Board shall pay fair and reasonable amounts warranted by the provider's qualifications and competence. The Board need not select the lowest responsible bidder.

The District will invite Architects to respond to a District prepared Request for Qualifications (RFQ) and Proposal (RFP). The RFQ/RFP will provide a general description of the proposed project, scope of services, and desired qualifications sought by the District.

The Superintendent will establish an approved list of architectural, engineering, land surveying, and construction project management firms for review from the list of RFQ/RFP submittals. A committee comprised of two Board members and other appropriate individuals selected by the Superintendent shall review the approved list of architectural firms.

Legal References:

EDUCATION CODE

17070.50 Conditions for apportionment

17280-17316 Approvals, especially:

17302 Persons qualified to prepare plans, specifications and estimates and supervise construction

17316 Contract provision re school district property

17371 Limitation on liability of governing board

GOVERNMENT CODE

4525-4529.5 Contracts with private architects, landscape 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

History:

Reviewed: 12/9/85

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SAN MARCOS UNIFIED SCHOOL DISTRICT
ADMINISTRATIVE PROCEDURE

BUSINESS SERVICES

NON-INSTRUCTIONAL OPERATIONS	7140
ARCHITECTURAL AND ENGINEERING SERVICES	Page 1 of 1

The Governing Board shall engage the services of a licensed architect(s) holding a valid certificate or engineer(s) holding a valid certificate for the preparation of plans, specifications or estimates for any construction project, through a signed contract. (Education Code 17302) Contracts shall specify that all plans, specifications and estimates prepared by the certified architect or structural engineer shall become the property of the district for the purposes of repair, maintenance, renovation, modernization, or other such purposes as they relate to the project. (Education Code 17316)

Contractors for any architectural, landscape architectural, engineering, environmental, land surveying or construction project management services shall be selected, at fair and reasonable prices, on the basis of demonstrated competence and professional qualifications necessary for the satisfactory performance of the services required. (Government Code 4526)

The Superintendent or designee shall ensure that the selection process for projects receiving state funding: (Government Code 4526),

1. Ensures that projects entail maximum participation by small business firms as defined pursuant to Government Code, section 14837,
2. Prohibits practices which might result in unlawful activity such as, but not limited to, rebates, kickbacks, or other unlawful consideration, and
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.

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Reviewed: 02/14/00
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SAN MARCOS UNIFIED SCHOOL DISTRICT
BOARD POLICY

BUSINESS SERVICES

NON-INSTRUCTIONAL OPERATIONS
SITE SELECTION AND DEVELOPMENT

7150
Page 1 of 3

The Governing Board believes that site selection and development start from the premise that the school is an integral and inseparable part of the total community. The Governing Board believes that a school site should serve the district's educational needs in accordance with the district's master plan as well as show potential for contributing to other community needs. The Superintendent or designee shall establish a site selection process that complies with law and ensures that the best possible sites are acquired and developed at the least expense.

The manner and extent to which a site serves our school district's educational needs shall be considered as only one aspect of its adequacy. Its adequacy shall also be appraised in respect to its potential for contributing to the scope and depth of other cultural functions in the community. The Board recognizes the importance of community input and will solicit community input whenever a school site is to be selected. 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.

Education Code 17070.10-17077.10 set forth eligibility requirements for the receipt of state facilities funds under the School Facilities Program of 1998 (Proposition 1A). As a condition for receipt of the funds, Education Code 17070.50 requires districts to obtain the written approval from the CDE and certify to the State Allocation Board that the District's site selection and building plans comply with the regulations developed by the department pursuant to Education Code 17251 (b) and (c). In addition, Education Code 17070.50 requires the District to certify that the services of an architect, a structural engineer, or other design professional has been selected using a competitive process consistent with Government Code 4526.

For projects funded under this program, AB 387 (Ch. 992, Statutes of 1999) and SB 162 (Ch. 1002, Statutes of 1999) create standards, effective January 1, 2000, to ensure that newly-acquired school sites are free from toxic contamination.

Before acquiring property for a new school or an addition to an existing school site, the Board shall evaluate the property at a public hearing using state site selection standards. (Education Code 17211)

The Superintendent or designee shall determine whether any proposed development project is subject to the requirements of the California Environmental Quality Act (CEQA) and shall ensure compliance with this Act whenever so required. When evaluating district projects, the CEQA guidelines shall be used.

If the proposed site is in an area designated in a city, county, or city and county general plan for agricultural use and zoned for agricultural production, the Board shall determine all of the following: (Education Code 17215.5)

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

2. That the Board has evaluated the final site selection based on all factors affecting the public interest and not limited to selection on the basis of the cost of the land
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

The Superintendent shall ensure that every school is master-planned for ultimate development. This planning shall include the locations of all buildings, grounds, and service facilities. If all buildings in the master plan are not constructed in the first phase, a tentative second phase schedule shall be developed.

Before acquiring property for a new school or an addition to an existing school site, the Board shall evaluate the property at a public hearing using state site selection standards. (Education Code 17211).

Legal Reference:

EDUCATION CODE

17006 Definition of self-certifying district

17024 Prior written approval of CDE for selection of school site or construction of building

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

17211-17218 General provisions (school sites)

17251 Powers concerning buildings and building sites

17268 Compliance before construction

17565-17592 Board duties re management and control of school property

35271 Power to acquire and construct on adjacent property

35275 New school planning and design, re consultation with local recreation and park authorities

CODE OF CIVIL PROCEDURE

1263.710-1263.770 Remediation of hazardous substances on property to be acquired by school districts

GOVERNMENT CODE

53094 Authority to render zoning ordinances inapplicable

65402 Acquisition or disposition of property

65995-65997 Developer fees

66455.9 Written notices of proposed public school site within development; investigation and report; conditions for acquisition

HEALTH AND SAFETY CODE

25300-25395.15 Hazardous Substances Accounts

PUBLIC RESOURCES CODE

21000-21178 Implementation of Environmental Quality Act

CODE OF REGULATIONS, TITLE 5

14001-14037 Minimum standards

CODE OF REGULATIONS, TITLE 14

15000-15209 Review and evaluation of EIRs and negative declarations

ATTORNEY GENERAL OPINIONS

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

Management Resources:

WEB SITES

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

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

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SAN MARCOS UNIFIED SCHOOL DISTRICT
ADMINISTRATIVE PROCEDURE

BUSINESS SERVICES

NON-INSTRUCTIONAL OPERATIONS
SITE SELECTION AND DEVELOPMENT

7150
Page 1 of 8

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 and request its report and recommendations regarding the proposed site'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. (Education Code 17212-17212.5)
4. Ensure that the site meets state standards for school site selection as specified in 5 CCR 14010-14012.
5. Ensure compliance with the California Environmental Quality Act (CEQA) as required by law. (Public Resources Code 21000-21178)
6. If the proposed site is within two miles of the air line of an airport runway or proposed runway before acquiring title to the site, notify the California Department of Education (CDE) in writing. (Education Code 17215)
7. Ensure that the site meets state standards for school site selection as specified in the Code of Regulations, Title 5, Section 14010, unless the district has satisfactorily demonstrated to the Superintendent of Public Instruction that circumstances can be mitigated without compromising a safe and supportive school environment. These standards address but are not limited to the following: (Code of Regulations, Title 5, Section 14010)
 - a. Acreage and enrollment for a new school site and, if acreage is insufficient, demonstration of how students will be provided an adequate educational program, including physical education
 - b. Distance from power line and railroad track easements and from roads or freeways that may cause safety and/or sound-level problems
 - c. Avoidance of safety hazards including earthquake faults, flood areas, landslides, and aboveground water or fuel storage tanks

- d. Length-to-width ratio of the site to allow safe supervision of buildings, parking areas and playfields and enable students to meet the district's passing times to classes
- e. Traffic patterns and accessibility from roads
- f. Compatibility of existing or proposed zoning of surrounding properties
- g. Location within the proposed attendance area to encourage student walking and avoid extensive busing
- h. Joint use of parks, libraries, museums and other public services
- i. Convenience of location for public services, including fire and police protection, public transit and trash disposal
- j. Environmental factors of light, wind, noise, aesthetics and air pollution
- k. Potential cost and delay issues, such as the distance of utilities to the site and other land development needs, relocation costs and legal fees, landscaping and maintenance costs, the existence of endangered or protected wildlife habitats, etc.

Environmental Impact Investigation

The following actions shall be taken in order to ensure compliance with the California Environmental Quality Act:

1. Each proposed project shall be evaluated to determine whether it: (Public Resources Code 21080)
 - a. Is categorically exempt from the California Environmental Quality Act
 - b. Will not have a significant effect on the environment and does not require the preparation of an environmental impact report (EIR)
 - c. May have a significant effect on the environment that makes an environmental impact report (EIR) necessary
2. If the project is categorically exempt from the California Environmental Quality Act, a notice of exemption shall be filed pursuant to Public Resources Code 21152.
3. If there is no significant evidence, in light of the whole record, that a proposed project may have a significant effect on the environment, a negative declaration shall be adopted. (Public resources Code 21080)
 - a. The negative declaration shall include all findings specified in Public Resources Code 21151.8 and, with respect to hazardous substances assessment, findings pursuant to Education Code 17213, as appropriate.

- b. The Board shall not approve a project until (1) at least 30 days have passed for review of and comment on the proposed negative declaration and (2) the completion of the review process and public hearing for the preliminary endangerment assessment (PEA), as applicable. This review period shall be extended as necessary for review by the state clearinghouse. (Education Code 17213.1; Public Resources Code 21091)
- c. When the District is preparing a negative declaration, public notice of that fact shall be provided pursuant to Public Resources Code 21092. The notice shall briefly describe the proposed project and its location, the address where copies of the negative declaration and all documents referenced therein are available for review, the time period when comments will be received, and the date, time and place of any related public meetings or hearings. (Public Resources Code 21092)

The above notice shall be either published in a newspaper of general circulation in the area(s) affected by the notice, posted on or off site in the area where the project is to be located, or mailed directly to the owners and occupants of contiguous property shown on the latest equalized assessment roll. (Public Resources Code 21092)

The notice shall also be posted in the office of the county clerk for 20 days, unless otherwise required by law to be posted for 30 days, and shall be mailed to all persons who have requested it. (Public Resources Code 21092.3)

The request for a mailed notice shall be renewed annually. Except for notices sent to public agencies, the District shall charge a fee that is reasonably related to the cost of providing the notice.

- d. Upon the close of the review period, the Board shall determine whether the project is the appropriate subject of a negative declaration and subsequently proceed according to #3(e).
 - 1) The Board may affirm the decision that the project is the appropriate subject of a negative declaration and subsequently proceed according to #3(e).
 - 2) If the Board determines that the project is not the appropriate subject of a negative declaration, it shall proceed in accordance with #5.
- e. The negative declaration and the initial study shall be filed with the Office of Planning and Research (state clearinghouse) and with the county clerk. (Public Resources Code 21152; 14 CCR 15205-15206)

Copies of the negative declaration and the initial study shall also be made available to local planning agencies, other interested persons, and the general public.

4. A mitigated negative declaration shall be adopted if an initial study has identified potentially significant effects on the environment but the District finds that both: (Public Resources Code 21064.5, 21080)
 - a. Revisions in the proposal made by or agreed to by the District before the negative declaration and initial study are released would avoid or mitigate the effects so that no significant effects on the environment would occur.
 - b. There is no substantial evidence that the project, as revised, would have a significant effect on the environment.
5. If the project may have a significant effect on the environment, an EIR shall be prepared. (Public Resources Code 21080, 21153)
 - a. The EIR shall include all findings as specified in Public Resources Code 21151.8 and, with respect to hazardous substances assessment, findings pursuant to Education Code 17213 and 17213.1, as appropriate.
 - b. The draft EIR shall be filed in accordance with 14 CCR 15206. The notice of completion and draft EIR shall also be made available to local planning agencies, appropriate state agencies, other interested parties, and the general public.
 - c. The Board shall not approve a project until at least 45 days have passed for review of and comment on the draft EIR. This review period shall be extended as necessary for review by the state clearinghouse. (Public Resources Code 21091)
 - d. Public notice shall be provided pursuant to Public Resources Code 21092. The notice shall briefly describe the proposed project and its location, any significant effects on the environment anticipated as a result of the project, the address where copies of the draft EIR and all documents referenced therein are available for review, the time period when comments will be received, and the date, time and place of any related public meetings or hearings. (Public Resources Code 21092)

The above notice shall be either published in a newspaper of general circulation in the area(s) affected by the notice, posted on or off site in the area where the project is to be located, or mailed directly to the owners and occupants of contiguous property shown on the latest equalized assessment roll. (Public Resources Code 21092)

The notice also shall be posted in the office of the county clerk for 30 days and mailed to all persons who have requested it. (Public Resources Code 21092.3)

The request for a mailed notice shall be renewed annually, and a fee may be charged as described in item #3(c) above.

- e. The Superintendent or designee shall respond in writing to comments received on the draft EIR and shall describe the disposition of any significant environmental issue that is raised by commenters. (Public Resources Code 21091)

- f. Prior to completing the EIR, the Superintendent or designee shall consult with, and obtain comments from, any bordering cities or counties and any public agency which has jurisdiction over the project. The Superintendent or designee also may consult with any other person who has special expertise with respect to any environmental impact involved. The EIR shall be circulated for public review with the PEA, when applicable. (Education Code 17213.1; Public Resources Code 21153)
 - g. The final EIR shall be adopted by the Board prior to the Board's decision to proceed with the project.
 - h. The Superintendent or designee shall file with the county clerk and the Office of Planning and Research a notice indicating the District's determination as to whether or not the project will have a significant effect on the environment, stating that an EIR has been prepared, and certifying that the final EIR and any comments and responses are available to the general public. (Public Resources Code 21152; 14 CCR 15205-15206)
6. If mitigation measures are required as part of either making a negative declaration or completing an EIR, the Board shall adopt a reporting and monitoring program. The reporting or monitoring program shall be designed to ensure compliance with the mitigation measures during project implementation. (Public Resources Code 21081.6)

PROJECTS FUNDED UNDER THE SCHOOL FACILITIES PROGRAM OF 1998

As a condition to receiving state funding pursuant to Education Code 17070.10-17077.10 and prior to acquiring a school site or, if the District owns or leases a school site, prior to the construction of a project, the Board shall contract with an environmental assessor, approved by the California Department of Education (CDE), to conduct a Phase I environmental assessment of the proposed site. (Education Code 17213.1)

If the Phase I environmental assessment concludes that further investigation of the site is not required, the Superintendent or designee shall submit the assessment and all documentation related to the proposed acquisition or use of the site to the CDE for forwarding to the Department of Toxic Substances Control (DTSC). (Education Code 17213.1)

If the District is notified by the DTSC that the Phase I environmental assessment is not complete or has been disapproved, the Superintendent or designee shall do one of the following: (Education Code 17213.1)

1. Take actions necessary to secure the approval of the Phase I environmental assessment.
2. Elect to conduct a preliminary endangerment assessment (PEA), including sampling or testing, to determine if a release of hazardous materials has occurred and, if so, the extent of the release; if there is a threat of release of hazardous materials; and/or if a naturally occurring hazardous material is present
3. Elect not to pursue the acquisition or the construction project

If the Phase I environmental assessment concludes that a PEA is needed or the DTSC determines, upon a review of the Phase I assessment, that a PEA is needed, the Board shall either: (Education Code 17213.1)

1. Elect not to pursue the acquisition or construction project
2. Contract with an environmental assessor to supervise the preparation of and sign a PEA of the proposed site and enter into an agreement with the DTSC to oversee the preparation of the PEA

Prior to commencing work on a PEA, the Superintendent or designee shall provide notice to residents in the immediate area, approved in form by the DTSC. (Education Code 17210.1)

The Superintendent or designee shall submit a preliminary draft of the PEA to the DTSC for its review and approval and to the CDE for its files. (Education Code 17213.1)

If the PEA determines that no further investigation of the site is required and the DTSC approves the PEA, the District may proceed with the acquisition or construction project. (Education Code 17213.1)

The Superintendent or designee shall make the final draft PEA available on the same basis and at the same time he/she makes available the draft environmental impact report (EIR) or negative declaration pursuant to Public Resources Code 21000-21178. (Education Code 17213.1)

If the draft EIR or negative declaration will not be made available until more than 90 days after the final draft PEA is approved, the Superintendent or designee shall, within 60 days of the PEA's approval, separately publish a notice of the availability of the PEA for public review in a local newspaper of general circulation. (Education Code 17213.1)

The Board shall hold a public hearing on the final draft PEA and the draft EIR or negative declaration at the same time and in the same manner pursuant to Public Resources Code 21000-21178. At the conclusion of the public hearing, the Superintendent or designee shall immediately forward all comments on the documents to DTSC. (Education Code 17213.1)

If an EIR or negative declaration was prepared by the District prior to the initiation of the PEA, the Board shall reconsider the EIR or negative declaration in light of the final approved PEA and determine whether a further environmental document is necessary. (Education Code 17213.1)

If the final approved PEA determines that a release of hazardous material has occurred, that there is the threat of a release of hazardous material, and/or that a naturally occurring hazardous material is present, and that further investigation is required, the Board may elect not to proceed with the acquisition or construction project. If the Board elects to pursue the acquisition or construction project, it shall do all of the following: (Education Code 17213.1)

1. Prepare a financial analysis that estimates the cost of response action that will be required at the proposed school site

2. Assess the benefits that accrue from using the proposed school site when compared to the use of alternative school sites, if any
3. Obtain the approval of the CDE that the proposed school site meets the school site selection standards adopted by the CDE pursuant to Education Code 17251(b)
4. Evaluate the suitability of the proposed school site in light of the recommended alternative school site locations in order of merit if the District has requested the assistance of the CDE pursuant to Education Code 17251

In the development of projects funded pursuant to Education Code 17070.10-17077.10, the Superintendent or designee shall:

1. Annually submit a summary report of expenditures to the State Allocation Board in accordance with law (Education Code 17076.10)
2. Include in the plans a hard-wired connection to a public switched telephone network or utilization of wireless technology (Education Code 17077.10)
3. 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)

PROJECTS NOT FUNDED UNDER THE SCHOOL FACILITIES PROGRAM OF 1998

Before the Board approves a project involving the acquisition of a school site, the Superintendent or designee shall determine that the proposed site is not any of the following: (Education Code 17213)

1. The site of a current or former hazardous waste or solid waste disposal site unless, if the site was a former solid waste disposal site, the Board concludes that the wastes have been removed
2. A hazardous substance release site identified by the state Department of Health Services and currently listed for removal or remedial action
3. A site that contains one or more pipelines, under or above ground, carrying hazardous substances, acutely hazardous materials, or hazardous wastes, unless the pipeline is a natural gas line used only to supply natural gas to the school or neighborhood.

The Superintendent or designee shall consult with the city or county and with the local air quality management district in order to identify any facilities within a quarter mile of the proposed site which might produce hazardous air emissions or handle hazardous or acutely hazardous materials; substances or waste. Following this consultation, the Board shall make one of the following written findings: (Education Code 17213)

1. That no such facilities exist

2. That although such facilities exist, the health risks from the facilities do not and will not actually or potentially endanger the health of students or staff, or corrective measures required under an existing order by another appropriate jurisdiction will, before the school is occupied, mitigate all chronic or accidental hazardous air emissions to levels that will not actually or potentially endanger the health of students or staff.

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SAN MARCOS UNIFIED SCHOOL DISTRICT
BOARD POLICY

BUSINESS SERVICES

NON-INSTRUCTIONAL OPERATIONS
FACILITIES FINANCING

7210
Page 1 of 2

When it is determined that school facilities must be built or expanded to accommodate an increased or projected increased enrollment, the Governing Board shall consider appropriate methods of financing for the purchase of school sites and the construction of buildings. In addition, financing may be needed when safety considerations and educational program improvements require the replacement, reconstruction or modernization of existing facilities.

The district shall research funding alternatives and recommend to the Board the method that would best serve district needs as identified in the district's master plan for school facilities.

These funding alternatives may include, but 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 qualified parcel tax pursuant to Government Code 50079
6. Using lease revenues for capital outlay purposes from surplus school property

Legal Reference:

EDUCATION CODE

15100-17059.2 School bonds, especially:

15122.5 Ballot statement

15300-15425 School facilities improvement districts

17000-17059.2 State School Building Lease-Purchase Law of 1976

17060-17066 Joint venture school facilities construction projects

17070.10-17076.10 Leroy F. Greene School Facilities Act of 1998

17085-17095 State Relocatable Classroom Law of 1979

17582 District deferred maintenance fund

17620-17626 Levies against development projects by school districts

17621 Procedures for levying fees

Legal Reference: (continued)

GOVERNMENT CODE

6061 One time notice

6066 Two weeks' notice

50075-50077 Voter-approved special taxes

50079 School districts; qualified special taxes

53175-53187 Integrated Financing District Act

53311-53368.3 Mello-Roos Community Facilities Act of 1982

53753 Assessment notice and hearing requirements

53753.5 Exemptions

54954.1 Mailed notice to property owners

54954.6 New or increased tax or assessment; public meetings and hearings; notice

65864-65867 Development agreements

65970-65980.1 School facilities development project

65995 65998 Payment of fees against a development project

66000-66008 Fees for development projects

66016-66018 .5 Development project fees

66020-66025 Protests and audits

HEALTH AND SAFETY CODE

33445.5 Overcrowding of schools resulting from redevelopment

33446 School constructions by redevelopment agency

CALIFORNIA CONSTITUTION

Article 13D, Sections 1-6 Assessment and property related fee reform

UNCODIFIED STATUTES

17696-17696.98 Greene-Hughes School Building Lease-Purchase Bond Law of 1986

CODE OF REGULATIONS, Title 2

1859-1859.106 School facility program

COURT DECISIONS

Loyola Marymount University v. Los Angeles Unified School District (1996) 45 Cal.App.4th 1256

Ehrlich v. City of Culver City (1996) 12 Cal.4th 854

Dolan v. City of Tigard (1994) 114 S. Ct. 2309

Canyon North Co. v. Conejo Valley Unified School District (1993) 19 Cal.App.4th 243, 23.
Cal.Rptr.2d 495

Garrick Development Co. v. Hayward Unified School District (1992) 3 Cal.App.4th 320, 4
Cal.Rptr.2d 897

Nolan v. California Coastal Commission (1987) 107 S.Ct. 3141

ATTORNEY GENERAL OPINIONS

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WEB SITES

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SAN MARCOS UNIFIED SCHOOL DISTRICT
BOARD POLICY

BUSINESS SERVICES

NON-INSTRUCTIONAL OPERATIONS
DEVELOPER FEES

7211
Page 1 of 2

Developer fees are one method of financing facilities available to the District. As amended by SB 50 (Ch. 407, Statutes of 1998), Government Code 65995 prohibits cities and counties from requiring development fees in excess of the maximum amounts set forth in Education Code 17620 to help fund school facilities. Government Code 65995 essentially repeals, until 2006, the Mira/Hart/Murrietta line of case law which had granted cities or counties the authority to deny development projects based on a determination as to whether the schools were adequate to meet the demands created by the development.

In order to finance the construction or reconstruction of school facilities needed to accommodate students coming from new development, the Governing Board may establish, levy and collect developer fees on residential, commercial and industrial construction within the district, subject to restrictions specified by law and administrative regulation.

APPEALS PROCESS FOR PROTESTS BY DEVELOPERS

The Superintendent or designee shall establish an appeals process for the handling of protests by developers. (Education Code 17621)

Legal Reference:

EDUCATION CODE

17070-17077.10 Leroy F. Greene School Facilities Act of 1998

17582 District deferred maintenance fund

17620-17626 Levies against development projects by school districts

GOVERNMENT CODE

6061 One time notice

6066 Two weeks' notice

65352.2 Level 2 funding notification requirement

65864-65869.5 Development agreements

65995-65998 Payment of fees against a development project

66000-66008 Fees for development projects

66016-66018.5 Development project fees

66020-66025 Protests and audits

CODE OF REGULATIONS, TITLE 2

1859-1859.106 School facility program

COURT DECISIONS

Dolan v. City of Tigard (1994) 114 S.Ct. 2309

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SAN MARCOS UNIFIED SCHOOL DISTRICT
ADMINISTRATIVE PROCEDURE

BUSINESS SERVICES

NON-INSTRUCTIONAL OPERATIONS
DEVELOPER FEES

7211
Page 1 of 6

Government Code 65995 provides authority for three different levels of developer fees to be levied by school districts. Pursuant to Education Code 17620 and Government Code 65995, Level 1 fees for residential, commercial and industrial construction may be assessed as long as the District's Developer Fee Justification Study, as required by Government Code 66001, justifies the amount. Pursuant to Education Code 17620, some types of construction may be exempted.

Level 1 Funding: Residential, Commercial and Industrial Construction

In order to levy or increase developer fees, Government Code 66001 requires that a district develop a Fee Justification Study which justifies the amount of the fee. The State Allocation Board sets the developer fee rates; these rates are increased on even numbered years. Education Code 17622 requires separate, special findings when levying fees on spaces enclosed for agricultural purposes.

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

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

Level 1 Funding: Notice and Hearing Requirements

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

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

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

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

1. The purpose of the fee and the public improvement(s) that the fee will be used to finance (Government Code 66006)
2. The Board's findings of reasonable relationship which justify the fees pursuant to Government Code 66001
3. The district's determination of either of the following conditions which allow collection of the fees at the time building permits are issued: (Government Code 66007)
 - a. That the fees are to reimburse the district for previous expenditures, or
 - b. That the fees shall be collected for public improvements or facilities for which an account has been established, funds have been appropriated and the district has adopted a proposed construction schedule or plan

Level 2 Funding: Residential Construction

Government Code 65995.5 allows the Board to impose a fee on residential construction that is higher than the Level 1 fee limit set forth in Government Code 65995 if the district is considered eligible pursuant to Education Code 17071.10-17078.10 and a timely application is made to the State Allocation Board. In addition, Government Code 65995.5 requires the district to adopt a "Facility Needs Analysis" and to satisfy the cost-saving/revenue-enhancing measures described in that section. Government Code 65995.5 clarifies that developer fees may be expended on the costs of performing the needs analysis as well as on the administrative costs associated with collecting the fees.

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

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

Level 2 Funding: Notice and Hearing Requirements

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

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

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

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

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

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

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

The fees authorized by Government Code 65995.5 (Level 2) and Government Code 65995.7 (Level 3) shall be adopted by resolution as part of the adoption or revision of the school facilities needs analysis. The fees shall take effect immediately upon adoption of the resolution and may not be effective for more than one year. (Government Code 65995.6)

Level 3 Funding: Residential Construction

Government Code 65995.7 has authorized a district that is eligible to receive the Level 2 funding the authority to levy a still higher fee on residential construction (Level 3 Funding) upon a determination by the State Allocation Board that state funds are no longer available.

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

Level 3 Funding: Notice and Hearing Requirements

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

All Developer Funding Fees: Additional Requirements

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

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

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

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

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

1. A brief description of the type of fee in the account or fund
2. The amount of the fee
3. The beginning and ending balance of the account or fund
4. The amount of the fees collected and the interest earned
5. An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees
6. An identification of an approximate date by which the construction of the public improvement will commence if the district determines that sufficient funds have been collected to complete financing on an incomplete public improvement
7. A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and, in the case of an interfund loan, the date on which the loan will be repaid, and the rate of interest that the account or fund will receive on the loan
8. The amount of refunds made pursuant to Government Code 66001(e) and any allocations made pursuant to Government Code 66001(f)

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

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

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

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

Appeals Process for Protests by Developers

Developers of residential, commercial and industrial projects who claim that the developer fee has been inappropriately levied shall use the following procedures: (Government Code 66020)

1. The developer shall tender any required payment in full or provide satisfactory evidence of arrangements to pay the fee when due or ensure performance of the conditions necessary to meet the requirements of the imposition.
2. The developer shall serve written notice to the Board. This notice shall include:
 - a. A statement that the required payment is tendered or will be tendered when due, or that any conditions which have been imposed are provided for or satisfied, under protest.
 - b. A statement informing the Board of the factual elements of the dispute and the legal theory forming the basis for the protest.
3. The protest shall be filed at the time of approval or conditional approval of the development or within 90 days after the date of the imposition of the fees.

At the time of the imposition of the fee, the Superintendent or designee shall provide each project applicant written notice that the 90-day period in which the applicant may initiate a protest has begun. The developer may file an action to attack, review, set aside, void or annul the imposition of the fees imposed on the development project within 180 days of delivery of the notice. (Government Code 66020)

History:

Reviewed: 02/14/00

Reviewed: 09/16/14

Revised: 06/24/02

Revised: 08/28/06

SAN MARCOS UNIFIED SCHOOL DISTRICT
BOARD POLICY

BUSINESS SERVICES

NON-INSTRUCTIONAL OPERATIONS
MELLO ROOS DISTRICTS

7212
Page 1 of 2

The Mello-Roos Community Facilities Act of 1982 (Government Code 53311 et. seq.) provides that a school district may establish a community facilities district to finance school facilities for the area which such facilities would serve. In order to form a Mello-Roos community facilities district which may issue bonds and/or levy a special tax to finance school construction, the Superintendent or designee shall recommend to the Governing Board related goals and policies addressing the following: (Government Code 53312.7)

1. The priority that various facilities shall have for financing through the Mello-Roos district
2. The credit quality to be required of bond issues and criteria to be used in evaluating the credit quality
3. Steps by which prospective property purchasers shall be fully informed about their related taxpaying obligations
4. Criteria for evaluating the equity of tax allocation formulas
5. Maximum tax burdens to be levied against any parcel
6. Definitions, standards and assumptions to be used in appraisals required by Government Code 53345.8
7. Student attendance boundary policy consistent with Government Code 53312.7

The proceeds of any bonds, notes or other securities issued pursuant to the Mello-Roos Community Facilities Act shall be deposited or invested in accordance with Government Code 53356.03.

Legal Reference:

EDUCATION CODE

15300-15425 School facilities improvement district

17060-17066 Joint venture school facilities construction projects

GOVERNMENT CODE

53311-53368.3 Mello-Roos Community Facilities Act of 1982

53753 Assessment notice and hearing requirements

53753.5 Exemptions

54954.1 Mailed notice to property owners

54954.6 New or increased tax or assessment; public meetings and hearings; notice

65970-65981 School facilities development project

65995 Levies against development projects
CODE OF REGULATIONS, TITLE 2
1859-1859.106 School facility program

Management Resources:

WEB SITES

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

Adoption History:

Reviewed: 02/14/00

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Reviewed: 08/28/06

Reviewed: 09/16/14

SAN MARCOS UNIFIED SCHOOL DISTRICT
BOARD POLICY

BUSINESS SERVICES

NON-INSTRUCTIONAL OPERATIONS	7213
SCHOOL FACILITIES IMPROVEMENT DISTRICTS	Page 1 of 2

Education Code 15301 provides two different methods by which school districts may form a school facilities improvement district. The districts may select the appropriate option.

OPTION 1:

Option 1 allows districts which have formed a community facilities district pursuant to the Mello-Roos Community Facility Act to form a school facilities improvement district if the boundaries include all of the territory within district boundaries that is not included in the existing Mello-Roos District.

The district may form a school facilities improvement district to finance any or all of the improvements set forth in Education Code 15302. The territory of the school facilities improvement district shall include all of the territory within the district boundaries that is not included in the existing Mello-Roos District. (Education Code 15301)

OPTION 2:

Education Code 15301 authorizes any district, with the approval of the County Board of Supervisors, to form a school facilities improvement district with boundaries that do not include all or part of any previously established Mello-Roos district. The per parcel tax rate for property in the school facilities improvement district may not exceed that levied on parcels within a Mello-Roos district in the same school district. If the Board determines that it is necessary and in the best interest of the district to form a school facilities improvement district, but that the district will not meet the requirements set forth in Education Code 15301, the Board may establish an improvement district if it conforms with the requirements provided below.

As part of the determination 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 15302, the Governing Board shall find 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. (Education Code 15301)

The Board shall also define the boundaries of the school facilities improvement district to include any portion of territory within the jurisdiction of the school district. However, these boundaries may not include all or a portion of the territory of the community facilities district formed pursuant to the Mello-Roos Community Act. (Education Code 15301)

Legal Reference:

EDUCATION CODE

15300-15425 School facilities improvement districts

GOVERNMENT CODE

6061 One time notice

6066 Two weeks' notice

50075-50077 Voter-approved special taxes

50079 School districts; qualified special taxes

53175-53187 Integrated Financing District Act

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:

WEB SITES

Department of General Services, Office of Public School Construction:

<http://www.dgs.ca.gov/opsc/>

Adoption History:

Reviewed: 02/14/00

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Revised: 08/28/06

Reviewed: 09/16/14

SAN MARCOS UNIFIED SCHOOL DISTRICT
ADMINISTRATIVE PROCEDURE

BUSINESS SERVICES

NON-INSTRUCTIONAL OPERATIONS	7213
SCHOOL FACILITIES IMPROVEMENT DISTRICTS	Page 1 of 2

Upon determining that a school facilities improvement district is necessary and the method of formation determined, the Governing Board shall adopt a resolution of intention that states 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, consistent with the requirements of Education Code 15302
3. The estimated cost of the school facilities improvement project
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

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. The resolution shall also be posted in three public places within the proposed school facilities improvement district for at least 14 days before the hearing. (Education Code 15321)

The Board shall hold the above hearing as specified in its resolution and may, at the hearing, adopt a resolution proposing modifications of its above-stated purposes consistent with Education Code 15302. A resolution proposing modification shall describe the proposed modifications, state any change in the estimated cost of carrying out the purpose, and fix a time and place for a related Board hearing. (Education Code 15322, 15323)

At least 14 days before the hearing to consider its resolution proposing modification, the Board shall publish the resolution one time in the same newspaper in which the resolution of intention was published. (Education Code 15324)

When hearings are concluded, the Board may, by resolution, order the formation of a school facilities improvement district. 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)

The Superintendent or designee shall establish procedures consistent with Education Code 15330-15425 governing the financing of bonds, bond elections and the issuance and sale of bonds.

History:

Reviewed: 02/14/00

Reviewed: 08/28/06

Reviewed: 09/16/14

SAN MARCOS UNIFIED SCHOOL DISTRICT
Board Policy
BUSINESS SERVICES

NON-INSTRUCTIONAL OPERATIONS
NAMING OF FACILITY

7310
Page 1 of 2

The Governing Board recognizes that the naming of a school is important and should provide the following:

1. Allow distinction to each school
2. Harmonize with the community the school shall serve
3. Give appropriate recognition to historical events, places and/or persons
4. Promote a positive and attractive learning environment

When a new site is selected for a school the Governing Board may consider suggested names. The final decision, however, will be the responsibility of the Governing Board. Suggested names may include the following criteria:

1. The name may relate to the area of the school district where the school is located with regard to historical events, places, persons and/or street names.
2. The name should be sufficiently different from existing school names both in the District and in neighboring school districts to avoid confusion.

At times, to encourage community participation in the process of selecting names, a citizen advisory committee may be appointed by the Superintendent to review name suggestions prior to submission of recommendations for the Board's consideration.

The renaming of existing schools or major facilities may occur in order to promote an educational goal or change in direction. It may also occur to make a distinction between names of other schools in the District and other districts.

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

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

Naming Rights

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

1. Specify the benefits to the district from entering into the agreement
2. State the roles and responsibilities of the parties to the agreement, including whether or not the Governing Board shall retain the power to approve any proposed name
3. Provide details related to the naming right granted, including the building, grounds, or facility involved and the duration for which the name shall be in effect
4. Prohibit any message, image, or other depiction that advocates or endorses the use of drugs, tobacco, or alcohol, encourages unlawful discrimination against any person or group, or promotes the use of violence or the violation of any law or district policy
5. Reserve the authority to terminate the naming right if it determines that the grantee, subsequent to receiving the naming right, has engaged in any of the prohibited acts stated in item #4 above or other criminal or unlawful acts that might bring the District into disrepute.

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

Legal Reference:

EDUCATION CODE

35160 Authority of governing boards

Adoption History:

Review: 08/23/93

Adopted: 09/13/93

Revised: 11/12/02

Revised: 07/14/03

Revised: 08/28/06

Revised: 09/10/07

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Revised: 09/19/17