

FRESNO COUNTY SUPERINTENDENT OF SCHOOLS
FRESNO COUNTY BOARD OF EDUCATION

Business and Non-instructional Operations
SALE OR LEASE OF REAL PROPERTY

The County Superintendent and County Board believe that facilities and resources shall be used in the most economical and practical manner. The County Superintendent or designee shall periodically study the current and projected use of real property owned by the County Board to ensure the efficient utilization of space and the effective delivery of instruction.

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

Prior to the sale or lease of any surplus real property, the County Board may appoint an advisory committee to advise the County Board regarding the use or disposition of schools or school building space that 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 County Board may elect not to appoint an advisory committee. (Education Code 17387-17391.)

If the local planning agency has adopted a general plan that affects or includes the area where the surplus property is located, the County 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 County 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.)

When selling or leasing real property, the County Board shall comply with the priorities and procedures specified in applicable 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 County 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 County Board shall adopt a resolution by a two-thirds vote of all of its members at a regular, open meeting. The resolution shall declare the property exempt surplus land, 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 County Board will pay to a licensed real estate broker out of the minimum price or rent. The resolution shall fix a time, not

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less than three weeks thereafter, for a public meeting, held at the County Board's regular meeting place, at which sealed proposals to purchase or lease will be received and considered. (Education Code 17466.)

The County 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 County 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 Fresno County, if such a newspaper exists. (Education Code 17469.)

The County Superintendent or designee shall take reasonable steps to provide notification to the former owners of the property of the county office's intent to sell it in accordance with Education Code 17470.

Acceptance/Rejection of Bids

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

The County Board may reject any and all bids, either written or oral, and withdraw the properties from sale when the County 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 County 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 County Board shall finally accept the highest bid after deducting the commission, if any, to be paid to a licensed real estate broker, unless the County 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 County Board may adopt a resolution of acceptance that directs the County 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 County Superintendent or designee shall ensure that proceeds from the sale or lease with an option to purchase county office surplus property are used in accordance with law. (Education Code 17462; 2 CCR 1700.)

Adopted: 11/15/2018

Amended: 05/18/2023

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Legal References

Education Code

17219-17224 Acquisition of property not utilized as school site; nonuse payments; exemptions
17230-17234 Surplus property
17385 Conveyances to and from school districts
17387-17391 Advisory committees for use of excess school facilities
17400-17429 Leasing property
17430-17447 Leasing facilities
17453 Lease of surplus district property
17455-17484 Sale or lease of real property
17463.7 Proceeds for general fund purposes
17485-17500 Surplus school playground (Naylor Act)
17515-17526 Joint occupancy
17527-17535 Joint use of district facilities
33050 Request for waiver
38130-38139 Civic Center Act

Government Code

50001-50002 Definitions
54220-54232 Surplus land
54222 Offer to sell or lease property
54950-54963 Brown Act
54952 Legislative body, definition

Public Resources Code

21000-21177 California Environmental Quality Act

Code of Regulations, Title 2

1700 Definitions related to surplus property

Court Decisions

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

Management Resources

CSBA Publications

Maximizing Opportunities for Physical Activity Through Joint Use of Facilities, Policy Brief, September 2009

California Department of Education Publications

Closing a School Best Practices Guide

Office of Public School Construction Publications

Unused Site Program Handbook, May 2008

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Websites

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

California Department of Education, School Facilities Planning Division:

<http://www.cde.ca.gov/ls/fa>

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

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

3280, 10/2020; Doc# 106174-2