



Vacaville Unified School District
751 School Street Vacaville, California 95688-3945



Board of Education

Mary Kay Sogge, President • Jay Yerkes, Vice President
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John Aycock, Board Secretary & Superintendent

MEMORANDUM

DATE: January 6, 2010
TO: School Closure Committee
FROM: Ms. Leigh A. Coop, Director of Facilities
And Mark Frazier, Chief Academic Officer

RE: School Closure Committee Overview and Timeline

The Board of Education of the Vacaville USD at its regular meeting on December 10, 2009, approved the formation of a School Closure Committee. The SCC was approved as a Superintendent-appointed committee, with the Board approving the general categories and number of members.

The Board directed that the committee's purpose is to provide a recommendation to the Board on a rank ordering of schools to be closed if the decision to close one or more elementary schools is made. The Committee has not been asked by the Board to make a recommendation on whether or not to close schools.

The Board also agreed that SCC meetings are to be operated under the requirements of the Brown Act. In accordance with that Act, all meetings are to be posted and open to the public, meeting agendas are to be posted no later than 72 hours prior to the meeting, all actions and decisions of the committee are to be made in the public view at the meetings, and there is to be an opportunity for public comment at each meeting.

The meeting agendas will be posted on the District's website at www.vacavilleusd.org, and will be posted at all schools and sites. Because of the need for timely decisions in response to anticipated budget cuts from the State, Superintendent Aycock has directed that this Committee complete its work and provide a ranking recommendation to the Board at the February 11, 2010 regular Board of Education meeting.

Meetings of the SCC are scheduled as follows. All meetings are currently scheduled to be held at the Vaca Pena Middle School Gymnasium, with location subject to change. All meetings will start at 6:30 p.m.

Future Meetings:

Meeting #2 Tuesday, January 19, 2010
Meeting #3 Monday, January 25, 2010
Meeting #4 Monday, February 1, 2010 (if needed)

The Superintendent and Board asked that a recommendation from the SCC be submitted to the Board at its regular meeting on February 11, 2010. It is up to the Board whether they vote to adopt the recommendation at that meeting or at a later meeting, or they may decide to take it as information and not vote on it.

School Closure Committee Meeting #1
Overview and Timeline
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If the Board eventually decides to close one or more elementary schools, the District would then go through a boundary change process. This process will likely include community meetings and public hearings to provide information and obtain public input, presentations of different boundary scenarios and eventually Board approval of boundary changes. It is unknown when this would occur, but would need to be finalized as soon as possible in order to have adequate time to provide information to parents and staff, as well as to prepare for the implementation of the closure in time for the end of the school year.

Throughout the spring, the District will be grappling with the requirement to make budget cuts in order to have a balanced budget by June 30, 2010, a requirement of State law. School closures are one option in a list of possible options for budget savings in order to maintain district fiscal solvency. The Budget Advisory Committee meets frequently in order to provide recommendations to the Board for budget cuts and will be the actual body recommending whether to close schools or not. The current Budget Review spreadsheet used by the Budget Advisory Committee and Board of Education is attached for your reference.

An information sheet that has been developed by the District is included for your use and reference.

The California Department of Education has produced a document on school closure best practices, which is available on their website at <http://www.cde.ca.gov/ls/fa/sf/schoolclose.asp>. The document has been attached for your use and reference. It should be noted that this document as prepared with the assistance of Vacaville Unified School District staff.

If you would like copies of any information referenced here, or have questions or need additional information, please contact Ms. Leigh A. Coop, Director of Facilities, Vacaville Unified School District (telephone (707) 453-6138; email leighc@vacavilleusd.org).

California Department of Education (<http://www.cde.ca.gov/ls/fa/sf/schoolclose.asp>)
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Closing a School Best Practices Guide

Introduction

The decision to close a school is anguishing. It profoundly affects parents, neighborhoods, communities, district personnel, and, of course, students. It affects relationships, routines, and cherished territorialities. In short, it alters not only district operations but also lives.

A decision not to close a school, however, amidst circumstances of declining enrollment and economic necessity, can be imprudent. And while the immediate effects of closing a school may be painful, the long-term effects can be beneficial to everyone.

Indeed, the process of closing a school is difficult, but if done correctly, it becomes less difficult. This "Closing a School Best Practices Guide" (CASBPG) will hopefully make the process easier.

The CASBPG is divided into five chapters:

1. Gathering facts
2. Deciding which school to close
3. Making the decision
4. Making the transition
5. Disposing of surplus property

Chapter 1: Gathering facts

Gather the facts. The decision to close a school must be based upon hard, empirical evidence that leads to a broadly supported, incontrovertible conclusion—the district cannot afford to keep a particular school(s) open without cuts elsewhere (budget, staffing, etc.). This conclusion must be program-based upon such factors as projections of declining enrollment, critical district financial circumstances, facility conditions, educational program quality, costs of unnecessarily keeping underutilized facilities open, feasible options to closing a school, anticipated fiscal relief from school closure, and possibility, property disposition (see Chapter 5 for information on property disposition).

* *Form a committee to gather the facts.* It is a legislative intent, but not a mandate, for a district to have and use a District Advisory Committee (DAC) "before decisions are made about school closure" (*Education Code* Section 17387). But whether an intent or a mandate, the advice is good. The job of the superintendent and board members is to evaluate facts, not gather them. And the process of gathering the facts must be as credible, transparent and non-political as possible. So, at the very least, the DAC, often referred to as 7-11 Committee (due to legislative requirements of at least 7 but no more than 11 members) should be involved in the fact-finding necessary for an informal recommendation about school closure. *Education Code* Section 17389 suggests who should be represented on this committee.

An essential role of the DAC is to consider the district's Facility Master Plan and how a potential school closure could affect, or reinforce, that plan. It may be necessary to revise that plan based upon the fact-finding conclusions.

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Better still, the DAC should be expanded to include a cross-section of community members who have an interest in and may be affected by school closures. The Oak Grove School District in Santa Clara County called this expanded school-closure committee "The School Consolidation Task Force." Members of the following groups were considered for inclusion in this task force:

- Business community
- Professional groups
- Labor organizations
- Municipal governments
- Teachers and administrators
- Religious organizations
- Recreational entities
- Collective bargaining groups
- Student representatives
- Public agencies
- Environmental planners
- Civic organizations
- Land owners/brokers
- Parents
- Parent groups
- Service organizations

Demographers

Keep in mind that the DAC should have a balanced, cross-section of members, but a committee of too many members may be cumbersome and not efficient. In any case, it is important that this expanded school-closure committee be perceived as objective and independent from suspected school board or other political agendas. So it is best to have a membership mostly of volunteers (although a paid chairperson or facilitator is useful), making sure, though, that they are responsible citizens. The superintendent and school board members should not be included on the DAC or the expanded, school-closure committee. The Los Angeles County Superintendent of Schools recommends the expanded, school-closure committee's leadership to be an outside consultant, or an administrator from the district's central office. The committee itself can also elect one of its members to be the leader. The DAC leader can be appointed by a board member; however, this is least desirable.

DAC meetings are subject to the Ralph M. Brown Act. See *Government Code* Section 54952.3.

Decide what facts to gather. Members of the board of education should charge the expanded, school-closure committee with making a recommendation about school closures after it has completed specific inquiries and tasks. The scope of these tasks is broad and includes:

- determining enrollment projections and their impact on surplus space;
- inventorying the capacity and conditions of existing facilities;
- determining per-student operating cost at each facility;
- considering uniqueness of the educational program at each site;
- evaluating specific schools considered for closure (see Chapter 2);
- identifying specific new environmental/safety concerns from each site;
- determining cost-savings projected for each school considered for closure;
- identifying housing/transportation options for displaced students;
- considering cost benefits of varying property disposition/use options;
- recommending transition strategies;
- making specific recommendations about specific school sites to the board, and
- assessing the impact of school closure on district's insurance coverage.

Consider options. During the fact-finding process, the expanded, school-closure committee should consider alternatives to closing schools. Creating additional need for classrooms or eliminating unnecessary classrooms can affect decisions about school closure. Some of the alternatives as listed below do not involve real cost savings if this is the focus of reasons for school closure:

- expand class-size reduction to create a need for more classrooms;
- dispose of excess portables or leased facilities;
- close surplus classrooms;
- restructure grade configurations to balance school enrollment;
- reorganize attendance boundaries;
- use surplus classrooms for other district functions;
- enter into joint-use/joint occupancy agreements;
- convert to community day school use;
- convert to a small high school;
- lease for use as charter school (Proposition 39);
- shift to full-day kindergarten;
- initiate universal pre-school program; and
- consult with National Trust for Historic Preservation.

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Chapter 2: Deciding which school(s) to close

Decide schools to be considered for closure. Of course, there are many factors to weigh when selecting schools for possible closure. The most obvious criterion, a school with declining enrollment, is not necessarily the best. Consider other factors, too:

- *The condition of a school facility* - a modernized school, one in good repair, and/or one that has technological capacity or other educationally innovative features may be the best school facility in the district, in spite of its declining enrollment. It may be better to close an at-capacity but physically mediocre school;
- *The operating cost of a school* - operating costs may vary from school to school. Some schools use energy more efficiently, some schools need less maintenance, and some schools have minimal transportation costs. Factor these operating costs into decisions about which school to close;
- *The capacity of a school to accommodate excess students* - displaced students must be housed elsewhere in the district, so choosing a school site that has unused classrooms or the capacity to add portables, without encroaching on

playground/playfield space, is critical. Another important consideration is the ability of the school's essential, core facilities — library, multipurpose room, cafeteria, gymnasium, toilets — to accommodate additional students. While there may be room on a school site to add portable classrooms, there may be no room for all those students to use, say, the lunchroom at the same time. The administration building, also, must be considered since it may have to accommodate expanded services and personnel;

- *Special program facilities* - special programs, such as providing services for special education students, require special facilities. Closing a school that may have a large capital investment in these special facilities may not be cost effective if those specialized facilities need to be rebuilt elsewhere;
- *Environmental factors* - a school's surroundings may have changed since it was first opened. Zoning may have been relaxed to allow nearby, undesirable businesses to move in (i.e., liquor stores, adult bookstores, air-polluting manufacturers, industries that produce or store toxic chemicals), or there might be new environmental hazards (i. e., pipelines, high voltage power lines, fuel storage tanks, airport runway extensions, etc.) that now compromise the safety of the students at a school. The schools chosen to remain open must be safe schools.
- *Ethnic balance* - closing a school and redistributing its students should change as little as possible the ethnic balance in schools throughout the district. Closing some schools will more adversely affect ethnic distribution than others;
- *Transportation* - part of the decision to close a school should be based upon what transportation costs will be saved, and what new transportation costs will be incurred, once a school is closed and its students redistributed. Insuring that there can be safe walking routes for the displaced students to the new school reduces transportation costs and provides a healthy addition to the school day. It is also important to consider the adequacy of existing drop-off/pick-up and bus loading areas at the schools designated to receive additional students;
- *Neighborhoods* - having a neighborhood school is a part of every parent's sense of well being (not to mention the savings associated with transportation costs). The availability of nearby schools to the ones chosen for closure can lessen the impact of displacement and loss of connection to the new school;
- *Education program* - educational programs are generally mobile; programs and staff can move from site to site. But there can be site-related high achievement schools based upon innovative facility design, a particularly fortuitous dynamic among staff, and just the right mixture of students. Often these high achievement schools are unique and perhaps may be hard to reconstruct elsewhere. On the other hand, there can be historically low-performing schools. Such sites may be good candidates for closure providing an opportunity for re-distributing the students and staff;
- *Aesthetics* - often the presence of an attractive, well-designed, well-kept school can be a source of student and neighborhood pride, an asset to the community, as well as an educational asset. Of course, decisions about school closure are much more complex than just considerations of "appearance," but the physical aspect is important and should not be overlooked in the process of consideration;
- *Value* - if maximizing revenue from the sale or lease of surplus schools is integral to decisions regarding which school to close, then, of course, a property appraisal and assessment of the interests in and proposed uses for the property are vital. The appraisal and assessment must state that it complies with Uniform Standards of Professional Appraisal Practices as promulgated by the Appraisal Standards Board of the Appraisal Foundation. The expected value realized from a closed school should be measured not just in revenue but also in community enhancement (see Chapter 5 for limitations of how revenue from the sale or lease of property can be used).

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Chapter 3: Making the decision

Make the decision. Based upon the expanded school-closure committee's analysis and conclusion, the superintendent will make a recommendation to the school board. At this stage, the recommendation may have become modified based upon input from the superintendent's cabinet or other district staff.

Once the recommendation has been presented to the board, the superintendent should conduct public hearings. This should be done as soon as possible. In addition to an open school board meeting, each potential site that may be affected, those considered for closure, as well as those designated to receive a particularly heavy increase in enrollment as the result of school closures, should be the site for a series of public hearings.

Ideally, members of the community will have been included in the expanded school-closure committee so there will have been some communication and input from and to the community. Nevertheless, these meetings, especially for school closures, will be emotional, especially if they are perceived by parents that the meetings are a formality and not genuine attempts at meaningful communication. At the very least, the district should be represented by the superintendent and an assistant, a school board member from the area which includes the school to be affected, the site principal, and a member of the expanded school-closure committee. Other invited guests might include a representative from the PTA, media personnel, school site council members, and community dignitaries. Consider using a moderator to effectively manage time and control statements from the audience. Firm time lines for comments should be set and enforced. A district representative, perhaps a facilitator or someone from the expanded, school-closure committee, should be designated as the district liaison for all future school-closure communication. This shields, but only partially, rancor from being directed in subsequent weeks at district personnel and/or board members.

Representatives from the district should be candid about the facts behind the consideration for school closure. Graphically illustrate such data as declining enrollment figures, site-specific operating costs, and overall district financial difficulties. Talk about what is at stake: specific programs, reduced class sizes, instructional material reductions, even district financial solvency and academic performance. Demonstrate how academic standards can be maintained (or improved), special programs (e.g., special education, after school, GATE, etc.) continued, and new transportation needs accommodated. Explicitly show how school closure is a solution, or part of the solution, to a serious problem.

Also, be prepared to discuss proposed uses for the closed schools (see Chapter 5 for information on property disposition). While parents will be keenly involved in discussions about closing "their" school, the school's neighbors, whether parents or not, will express great concern about proposed uses of "their" closed school. At this point in the process, the district may not know what the planned use for the closed school may be, but this is a good opportunity to hear about community concerns. These concerns typically are explicit statements about what they do not want the school property used for. This is also a good opportunity to assure neighbors that any future use of the school property will be subject to public review and comment and would have to be compatible with local zoning regulations and the California Environmental Quality Act (CEQA).

After the public meetings, the board should consider, as an action item, a board resolution based upon the superintendent's recommendation to close a specific school. The superintendent's recommendation will have been based upon the expanded school-closure committee's findings, which may or may not have been modified after the public hearings.

Follow legal provisions. Neither the California *Education Code* nor the California *Government Code* requires a district to take specific steps when closing a school. There are, however, some codes and regulations that obliquely apply. These codes are listed below: (Codes and procedures for disposing of property are discussed in Chapter 5.)

- *Education Code* Section 17387 specifies the Legislature's intent that there be community involvement "before decisions are made about school closure or the use of surplus space..." While this Section specifies a legislative "intent," not a mandate, its application is common sense and should be an integral part of school-closure decisions (see "Form a Committee" above for recommended membership and responsibilities).
- *Education Code* Section 17388 mandates that the governing board appoint a District Advisory Committee (DAC) (often referred to as the "7/11 Committee") to advise the governing board in the development of district-wide policies governing the use of disposition of surplus property. Even though the DAC's responsibilities are specific to decisions after a school has been closed, those decisions should be made in concert with decisions about which schools, if any, to close. To restrict the DAC to post facto responsibilities is to neglect an integral component in the difficult decisions of school closure. DAC meetings are subject to the Brown Act and must be open to the public.
- *Education Code* Section 17389 defines the required composition of the DAC.
- *Government Code* sections 65560 et seq. and 65912 et seq. stipulate that land designated as an open-space zone be preserved for park and recreation purposes. Schools being considered for closure located on land zoned (or rezoned) as "open space" will have a limited market value compared, say, to land zoned as "residential" or "commercial."
- The California *Code of Regulations*, Title 5, sections 90-101 define a district's responsibility to avoid racial segregation among its schools. Decisions about school closure and subsequent student placement should not exacerbate racial isolation.
- The CEQA would consider the decision to close a school a "project," but typically a project eligible for a "statutory exemption," allowing the district to file a "Notice of Exemption." However, if a receptor school site—that is, the school which will accommodate those students displaced by the school closure—has an increase in enrollment by more than 25 percent or the addition of ten or more classrooms, whichever is less, then a more formal CEQA analysis may have to be initiated. Also, CEQA may apply to the subsequent sale or lease of a closed school. Because the CEQA process is specialized, it is best to consult with counsel on a case-by-case basis.
- To ensure that the school being closed does not continue to appear as open in the California Department of Education's (CDE) County-District-School (CDS) database, notify the CDS administration of the closure. The district's CDS coordinator should use the *OPUS-CDS application* for school closures. This closure notification will ensure that the CDE will not ask for data for the closed school and also prevent the CDE from providing communications, testing materials, or funding to the closed school.

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Chapter 4: Making the Transition

Obviously, once the decision to close a school is made, complicated transitions begin. But communication begins first. In fact, the district should be prepared right after the board's decision to announce to parents, staff, and the community that the decision to close a school has been made.

Many districts suggest that the first group to be notified that a school has been planned for closure should be that school's staff. While this is a good idea, it is important to understand the likelihood of quick staff-to-parent networks of communication. And because it is better for parents to find out from the district office rather than from information leaked by sources elsewhere, intensive district-to-parent communication should begin at about the same time as the school staff meetings. Of course, decisions to close a school should not be announced to parents without the ability to specify what their replacement school will be.

The methods of district-to-parent communication include press releases, newsletters, Web sites, and community meetings. Each announcement should include a summary of the process and reasons leading to the school closure decision, the transition time line, and district contact information. Communication by any means should occur often.

The most important method of communication, however, is a direct mailing to each affected household, identifying the replacement school and reiterating important time lines, projected transportation arrangements, and who the district contact will be. The direct mailing should also request a reply, verifying that the information has been received and understood. Parents can be given a choice of response methods: returning a form that has been included in the mailing, responding to a specified e-mail address, or phoning the district's school closure contact person. In turn, the district should keep a log to record who has replied. Eventually, those parents who haven't responded need to be phoned. This way the district can be assured that every parent has been informed.

School staff meetings should be on site and as reassuring as possible. Again, reasons for the decision to close the school should be presented and then the staff transition plan introduced. Any staff transition plan should begin with opportunities to request new placement sites. However, collective bargaining agreements (defining first-preference criteria) and district decisions about staff balance (this can be a factor of enrollment or the desire to create a certain teacher dynamic at a school) may preclude everyone's getting a first choice.

At the school staff meetings, staff should be encouraged to schedule visits to the schools where they may be placed. This will give staff the opportunity to start putting roots down in a new environment and to learn about any specialized program for which they may require training.

Another important step is forming a district transition team. This team should monitor the progress of student and staff assignments to the replacement sites, oversee textbook and instructional material allocation, insure that facilities are adequate (both in number and condition) to accommodate additional students at the new sites, and move or store furniture or equipment as needed for the transition.

The district transition team should also complete an inventory of the essential facilities at the sites designated to receive additional students. Toilets, multipurpose rooms and lunch rooms, playground space and apparatus, parking lots, and gymnasiums are typically built to accommodate a specific planned enrollment. Once that base enrollment is surpassed and open space converted into classroom space, those essential facilities may become inadequate. Adding toilets, scheduling multiple lunch periods, rewriting physical education curricula, redrawing playground areas, and reconfiguring parent drop-off and bus loading areas may be some of the needs associated with moving additional students onto existing campuses.

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Chapter 5: Disposing of school property

A vacant school site and empty buildings are district liabilities. They still require upkeep, maintenance, security, and insurance coverage (in fact, empty buildings may raise insurance costs). Unless the district foresees reopening the schools in the near future or is willing to financially support a vacant-school liability, closed schools should be leased, re-used, or sold outright.

Keep in mind that leasing a school, as opposed to selling it, allows a school district to retain it as a resource in case enrollment increases, as it often does, and facilities are needed again.

But there are statutes governing to what purposes the proceeds from the sale or lease of the property can be used and to whom district property must first be offered. In fact, the California *Education Code* has numerous relevant sections as listed below.

The district must appoint a DAC (the "7/11 Committee" discussed above) to advise the governing board in the use or disposition of school buildings and vacant sites not needed for school purposes (see *Education Code* Section 17388). As stated above, it is best if this committee is involved at the very beginning of discussions about school closure, but it is a legal mandate that the committee be formed and consulted about the use of school property once closure decisions have been made.

The district must also keep in mind that the proceeds from the sale or lease of surplus property generally have restricted uses. *Education Code* Section 17462 is important in this regard. It begins by stating that the proceeds from the sale of district property must be used for capital outlay purposes or maintenance of district property, and that the proceeds from the lease with an option to purchase district property may be deposited in a restricted fund used for routine repair of district facilities. This language excludes the ability to use funds for general fund purposes, but it does not mention how proceeds from the lease without an option to purchase can be used.

But *Education Code* Section 17462 goes on to say that these funds may be deposited into the general fund if the governing board and the State Allocation Board determine that the district has "no anticipated need for additional sites or building construction for the next ten years," and has "no major deferred maintenance requirements." For a district to give up state assistance for new construction, modernization, and deferred maintenance money for ten years usually serves as a deterrent from requesting these property disposition proceeds to be transferred to the general fund.

There are exceptions to the restricted use of funds described above. *Education Code* Section 17463 creates special circumstances for districts with enrollments of fewer than 10,001. And *Education Code* Section 17463.6 creates an exception for the Santee School District, the Valley Center-Pauma Unified School District, and the Capistrano Unified School District, allowing them to divert part of the proceeds from the sale of disposed property to the general fund.

In addition to limitations being placed on how the proceeds from the sale or lease of surplus property can be used, there are requirements specifying to whom the property must first be offered. These restrictions are complicated. Many can be waived by the State Board of Education, but the items listed below cannot: (These apply to property disposed through outright sale or through lease with an option to purchase)

- Land must first be made available for use for low-income housing and for park and recreation purposes (*Education Code* Section 17459);
- Land must be made available to specified park and recreation departments (*Education Code* Section 17464[a]).

Other pertinent *Education Code* sections that prescribe the manner in which property can be disposed are summarized here. These sections can be waived by action of the State Board of Education:

- Land must be offered in writing to the Director of General Services, Regents of the University of California, Trustees of the California State University, the county and city, any public housing authority; by public notice to various public agencies and non-profit charitable institutions. A time line to reply to the public notice is specified as 60 days after the final public notice. (*Education Code* Section 17464[b]);
- The board must by a 2/3 vote adopt a resolution to lease or sell specific pieces of property, must specify a minimum price, and must fix a time at which sealed proposals will be received and considered (*Education Code* Section 17466);
- The board at an open meeting shall accept the highest sealed bid (*Education Code* Section 17472);
- The board shall accept oral bids at an open meeting and shall accept the highest bid (if the highest bid is oral, then it must exceed the price or rental terms by at least 5 percent) (*Education Code* Section 17473).

It is important to consider seeking waivers to those sections above that may prevent the district from choosing the most desirable new owner or lessee of its surplus property. The obligation a district has to its community is sometimes more important than realizing the highest price from district property. It is essential that a district first confer with legal counsel prior to initiating the sale or lease of property.

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Conclusion

Hopefully, this "Closing a School Best Practices Guide" will guide and aid you and your district through an arduous, difficult task. A sample time line is included (Attachment A) to assist you. This time line should be modified to suit your districts unique needs. For additional information or if you have questions, contact the California Department of Education, School Facilities Planning Division, at 916-322-2470.

[Attachment A - Suggested School Closure Time Line \(XLS; 18KB; 1p.\)](#)

Questions: Dave Hawke | dhawke@cde.ca.gov | 916-322-1459

Last Reviewed: Tuesday, June 29, 2010

SALE OR LEASE OF DISTRICT-OWNED REAL PROPERTY

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

(cf. 1330 - Use of School Facilities)
(cf. 7110 - Facilities Master Plan)
(cf. 7111 - Evaluating Existing Buildings)
(cf. 7160 - Charter School Facilities)

Upon determination that district property is no longer needed or may not be needed until some future time, the Board shall offer to sell or lease district-owned real property in accordance with priorities and procedures specified in law, including, but not limited to, Education Code 17230, 17464, 17485-17500, and Government Code 54222.

(cf. 5148 - Child Care and Development)
(cf. 5148.2 - Before/After School Programs)
(cf. 5148.3 - Preschool/Early Childhood Education)

* When required by law, the Board shall appoint a district advisory committee to advise the Board in the development of policies and procedures governing the use or disposition of schools or school building space which is not needed for school purposes. (Education Code 17388)

(cf. 1220 - Citizen Advisory Committees)

Resolution of Intention to Sell or Lease

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

(cf. 9323.2 - Actions by the Board)

The Superintendent or designee shall provide notice of the adoption of the resolution and of the time and place of the meeting that will be held to consider bids by posting copies of the resolution, signed by the Board, in three public places not less than 15 days before

SALE OR LEASE OF DISTRICT-OWNED REAL PROPERTY (Continued)

the date of the meeting. In addition, the notice shall be published at least once a week for three successive weeks before the meeting, in a newspaper of general circulation published in the county in which the district is located, if such a paper exists. (Education Code 17469)

The Superintendent or designee shall take reasonable steps to provide notification to the former owners of the property of the district'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 Board shall open, examine, and declare all sealed bids. Before accepting any written proposal, the Board shall call for oral bids in accordance with law. (Education Code 17472, 17473)

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

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

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

(cf. 1431 - Waivers)

(cf. 9320 - Meetings and Notices)

Use of Proceeds

The Superintendent or designee shall ensure that proceeds from the sale or lease with an option to purchase of district surplus property are used in accordance with law. (Education Code 17462; 2 CCR 1700)

SALE OR LEASE OF DISTRICT-OWNED REAL PROPERTY (Continued)

(cf. 3100 - Budget)

(cf. 3460 - Financial Reports and Accountability)

***Note: ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009) added Education Code 17463.7 to authorize districts, until January 1, 2012, to use the proceeds from the sale of surplus real property, along with the proceeds from any personal property located on that real property, for any one-time general fund purpose. Districts that choose to exercise this authority will be ineligible for hardship funding from the SAB for five years after the proceeds are deposited. ***

***Note: Prior to exercising this authority, Education Code 17463.7 requires the Board to adopt a plan for expending the resources and to make specific certifications to the SAB, as specified below. Education Code 17463.7 contains additional requirements applicable to the sale of property purchased with proceeds from a local general obligation bond or revenue from developer fees. ***

Until January 1, 2012, the district may expend proceeds from the sale of surplus real property, along with the proceeds from any personal property located on that real property, for any one-time general fund purpose(s). Prior to exercising this authority, the Board shall certify to the State Allocation Board that: (Education Code 17463.7)

1. The district has no major deferred maintenance requirements not covered by existing capital outlay resources.

(cf. 3111 - Deferred Maintenance Funds)

2. The sale of real property pursuant to Education Code 17463.7 does not violate the provisions of a local bond act.

(cf. 7214 - General Obligation Bonds)

3. The real property is not suitable to meet projected school construction needs for the next 10 years.

Prior to exercising this authority, the Superintendent or designee shall present to the Board, at a regularly scheduled meeting, a plan for expending these one-time resources. The plan shall identify the source and use of the funds and shall describe the reasons that the expenditure shall not result in ongoing fiscal obligations for the district. (Education Code 17463.7)

SALE OR LEASE OF DISTRICT-OWNED REAL PROPERTY (Continued)

Legal Reference:

EDUCATION CODE

- 8469.5 Use of school facilities or grounds for school age child care
- 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, especially:
- 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

- 54220-54232 Surplus land, especially:
- 54222 Offer to sell or lease property
- 54950-54963 Brown Act, especially:
- 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

WEB SITES

- 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>

Policy

VACAVILLE UNIFIED SCHOOL DISTRICT

Approved: 8/4/2005; 2/15/2007; 8/202009; 1/21/2010

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It is the intent of the Legislature that leases entered into pursuant to this chapter provide for community involvement by attendance area at the district level. This community involvement should facilitate making the best possible judgments about the use of excess school facilities in each individual situation.

It is the intent of the Legislature to have the community involved before decisions are made about school closure or the use of surplus space, thus avoiding community conflict and assuring building use that is compatible with the community's needs and desires.

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The governing board of any school district may, and the governing board of each school district, prior to the sale, lease, or rental of any excess real property, except rentals not exceeding 30 days, shall, appoint a district advisory committee to advise the governing board in the development of districtwide policies and procedures governing the use or disposition of school buildings or space in school buildings which is not needed for school purposes.

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A school district advisory committee appointed pursuant to Section 17388 shall consist of not less than seven nor more than 11 members, and shall be representative of each of the following:

- (a) The ethnic, age group, and socioeconomic composition of the district.
- (b) The business community, such as store owners, managers, or supervisors.
- (c) Landowners or renters, with preference to be given to representatives of neighborhood associations.
- (d) Teachers.
- (e) Administrators.
- (f) Parents of students.
- (g) Persons with expertise in environmental impact, legal contracts, building codes, and land use planning, including, but not limited to, knowledge of the zoning and other land use restrictions of the cities or cities and counties in which surplus space and real property is located.

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The school district advisory committee shall do all of the following:

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

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The governing board may elect not to appoint an advisory committee pursuant to Section 17387 in the case of a lease or rental to a private educational institution for the purpose of offering summer school in a facility of the district.

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2009 California Education Code - Section 17485-17500 :: Article 5. Surplus School Playground, Playing Field, And Recreational Property

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EDUCATION CODE

SECTION 17485-17500

17485. The Legislature is concerned that school playgrounds, playing fields, and recreational real property will be lost for those uses by the surrounding communities even if those communities in their planning process have assumed that the properties would be permanently available for recreational purposes. It is the intent of the Legislature in enacting this article to allow school districts to recover their investment in surplus property while making it possible for other agencies of government to acquire the property and keep it available for playground, playing field or other outdoor recreational and open-space purposes.

17486. This article shall apply to any schoolsite owned by a school district, which the governing board determines to sell or lease, and with respect to which the following conditions exist:

(a) Either the whole or a portion of the schoolsite consists of land which is used for school playground, playing field, or other outdoor recreational purposes and open-space land particularly suited for recreational purposes.

(b) The land described in subdivision (a) has been used for one or more of the purposes specified therein for at least eight years immediately preceding the date of the governing board's determination to sell or lease the schoolsite.

(c) No other available publicly owned land in the vicinity of the schoolsite is adequate to meet the existing and foreseeable needs of the community for playground, playing field, or other outdoor recreational and open-space purposes, as determined by the governing

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body of the public agency which proposes to purchase or lease land from the school district, pursuant to Section 17492.

17487. As used in this article, "schoolsite" means a parcel of land, or two or more contiguous parcels, which is owned by a school district. "Governing board" means the governing board of the school district which owns the schoolsite.

17488. The governing board of any school district may sell or lease any schoolsite containing land described in Section 17486, and, if the governing board decides to sell or lease such land, it shall do so in accordance with the provisions of this article.

17489. Notwithstanding Section 54222 of the Government Code, the governing board, prior to selling or leasing any schoolsite containing land described in Section 17486, excluding that portion of a schoolsite retained by the governing board pursuant to Section 17490, shall first offer to sell or lease that portion of the schoolsite consisting of land described in Section 17486, excluding that portion retained by the governing board pursuant to Section 17490, to the following public agencies in accordance with the following priorities:

- (a) First, to any city within which the land may be situated.
- (b) Second, to any park or recreation district within which the land may be situated.
- (c) Third, to any regional park authority having jurisdiction within the area in which the land is situated.
- (d) Fourth, to any county within which the land may be situated.

The governing board shall have discretion to determine whether the offer shall be an offer to sell or an offer to lease.

An entity which proposes to purchase or lease a schoolsite offered by a school district shall notify the district of its intention, in writing, within 60 days after receiving written notification from the district of its offer to sell or lease.

17490. In determining what portion of a schoolsite shall be offered for sale or lease pursuant to this article, the governing board may retain any part of the schoolsite containing structures or buildings, together with such land adjacent thereto which, as determined by the governing board, must be included in order to avoid reducing the value of that part of the schoolsite containing such structures or buildings to less than 50 percent of fair market value.



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17491. (a) Except as otherwise provided in subdivision (b) or (e), the price at which land described in Section 17486, excluding that portion of a schoolsite retained by the governing board pursuant to Section 17490, is sold pursuant to this article shall not exceed the school district's cost of acquisition, calculated as a pro rata cost of acquiring the entire parcel comprising the schoolsite, adjusted by a factor equivalent to the percentage increase or decrease in the cost of living from the date of purchase to the year in which the offer of sale is made, plus the cost of any improvement to the recreational and open-space portion of the land which the school district has made since its acquisition of the land. In no event shall the price be less than 25 percent of the fair market value of the land described in Section 17486 or less than the amount necessary to retire the share of local bonded indebtedness plus the amount of the original cost of the approved state aid applications on the property, excluding that portion of a schoolsite retained by the governing board pursuant to Section 17489, at the time of the offer.

These provisions shall apply to land that the school district acquired by gift or for consideration.

(b) A school district that offers a portion of a schoolsite for sale may offer such portion of property for sale at its fair market value, provided the school district offers an equivalent size alternative portion of that schoolsite for school playground, playing field, or other recreational and open-space purposes.

(c) Land which is leased pursuant to this article shall be leased at an annual rate of not more than 1/20th of the maximum sales price determined pursuant to subdivision (a) of this section, adjusted annually by a factor equivalent to the percentage increase or decrease in the cost of living for the immediately preceding year.

(d) The percentage of annual increase or decrease in the cost of living shall be the amount shown for January 1st of the appropriate year by the then current Bureau of Labor Statistics Consumers Price Index for the area in which the schoolsite is located.

(e) Whenever a school district closes a schoolsite and sells any land described in Section 17486 pursuant to this article to help pay only for capital outlay costs incurred directly as a result of the transfer of pupils from the closed school to another school or other schools of the district, the sale price of the property determined pursuant to subdivision (a) shall be increased by an amount equal to the additional costs incurred due to the school closure.

17492. The governing body of a public agency which proposes to purchase or lease land from a school district pursuant to this article shall first make a finding, approved by a vote of two-thirds of its members, that public lands in the vicinity of the schoolsite are inadequate to meet the existing and foreseeable needs of the community for playground, playing field, or other outdoor recreational and open-space purposes.

17493. (a) No public agency may purchase surplus school property from a school district pursuant to this article unless it has first adopted a plan for the purchase of surplus school property. The plan shall designate the surplus site or sites all or a portion of which the public agency desires to purchase at the price established pursuant to this article and shall designate at least 70 percent of the total surplus school acreage as property which the agency does not desire to purchase at the price established pursuant to this article. Where the plan indicates that the agency desires to purchase only a portion of a schoolsite at the price established pursuant to this article, it shall designate the percent of the property to be so purchased and provide a description of the general location of the property to be purchased, without designating the metes and bounds.

(b) Any property designated by public agencies as surplus schoolsites which the agencies do not wish to purchase, pursuant to subdivision (a), may be sold or leased by a school district without regard to this article.

(c) This section shall become operative on April 1, 1982.

17494. Any land purchased or leased by a public agency pursuant to this article shall thereafter be maintained by such agency for playground, playing field, or other outdoor recreational and open-space uses. Land which prior to its sale or lease was used for playground or playing field purposes, shall continue to be maintained for such use by the acquiring agency, unless the governing body of that agency, by a two-thirds vote at a public hearing, determines that there is no longer a significant need for the land to be so used, in which case the land may thereafter be used for other outdoor recreational or open-space purposes. The school district may, at any time, reacquire the land at a price calculated in the manner prescribed in Section 17491, and the rights of reacquisition provided in this section shall be set forth in the deed or other instrument of transfer. If the governing board of the public agency determines that the land is no longer needed for playground, playing field, or

other outdoor recreational and open-space purposes, the public agency shall offer the property to the school district for reacquisition under this section, and the school district shall notify the public agency within 60 days of its intent to reacquire the land. If the school district intends to sell the property within one year of the reacquisition date, the school district may finance the reacquisition of the land by lien against the proceeds to be obtained from the sale of the land by the school district. If the school district fails to give the public agency timely notice of its intent to reacquire the property, or if it fails to exercise its right of reacquisition, the public agency may use or dispose of the property.

For purposes of this section, "cost of acquisition," as used in Section 17491, shall refer to the cost at which the land was acquired by the public agency.

17495. The sale or lease of land by a school district pursuant to this article shall be subject to, and governed by, the provisions of Article 2 (commencing with Section 17230) of Chapter 1 and Article 4 (commencing with Section 17455), except to the extent that the provisions of this article are inconsistent with a provision or provisions of Article 2 or 4, in which event the provisions of this article shall govern the sale or lease.

17496. Failure by the school district to comply with the provisions of this article shall not invalidate the transfer or conveyance of real property to a purchaser or encumbrancer for value.

17497. Notwithstanding the other provisions of this article, any school district governing board may designate not more than two surplus schoolsites as exempt from the provisions of this article for each planned schoolsite acquisition if the school district has an immediate need for an additional schoolsite and is actively seeking to acquire an additional site, and may exempt not more than one surplus schoolsite if the district is seeking immediate expansion of the classroom capacity of an existing school by 50 percent or more.

The exemption provided for by this section shall be inapplicable to any schoolsite which, under a lease executed on or before July 1, 1974, with a term of 10 years, was leased to a city of under 100,000 population for park purposes, was improved at city expense, and used for public park purposes.

17498. A school district having a schoolsite described in Section

17486 may, as an alternative to sale or lease of the land pursuant to the foregoing provisions of this article, enter into other forms of agreement concerning the disposition of the property with any entity enumerated in Section 17489, in accordance with the priorities therein specified, including, but not limited to each of the following:

(a) An agreement to lease to such entity all or part of the schoolsite for a specified term, with an option to purchase such properties at the end of the term.

(b) An agreement granting to the entity a permanent open-space easement for recreational use over a portion of the leased site.

(c) If the lessee or a grantee under an agreement is an entity having zoning powers, an agreement requiring the entity to rezone any portion of the property retained by the school district in accordance with conditions specified in the agreement, to the extent that rezoning in accordance with the conditions is in compliance with applicable laws of the state.

17499. (a) No more than 30 percent of the total surplus school acreage owned by a school district may be purchased or leased by public agencies pursuant to this article.

(b) The right of any public agency to purchase or lease surplus school property pursuant to this article shall exist only with respect to an amount of surplus school acreage within its jurisdictional boundaries which, when added to the surplus school acreage within its jurisdictional boundaries already purchased or leased pursuant to this article, will not exceed 30 percent of the surplus school acreage owned by the school district which is within the jurisdictional boundaries of that agency.

(c) For purposes of this section, "surplus school acreage" of a school district means property which is owned by a district and not used for school purposes, including, but not limited to, undeveloped property and property which contains school buildings that are not in use as a result of a school closure and which is not subject to any lease or agreement executed on or before July 1, 1974, for a term in excess of six years, in which any city containing a population of less than 100,000 had use of the property for park purposes on January 1, 1981, and had improved the property.

(d) Nothing in this section shall be construed to deny local agencies the opportunity to purchase at full market value all or part of the 70 percent of the total surplus school acreage which is not affected by this article.