

**OAKLAND UNIFIED SCHOOL DISTRICT
 SURPLUS PROPERTY DISPOSITION
 CHECKLIST OVERVIEW¹**

<u>ACTION/AUTHORITY</u>	<u>TARGET DATE</u>	<u>DATE COMPLETED</u>
I. PRELIMINARY EVALUATION		
<p>1. Board appoints a 7-11 Committee (Ed. Code, § 17388).</p> <p>Committee's purpose: advise the Board in developing District-wide policies and procedures in the use or disposition of school buildings or space not needed for school purposes (Ed. Code, §§17387, 17388). A Committee may be formed for multiple or single potential surplus property evaluations, but the Committee must evaluate District-wide issues even if formed regarding a single site.</p>		
2. Committee may consist of 7 to 11 members (Ed. Code, § 17389).		
<p>3. Committee members must be representative of each of the following (Ed. Code, § 17389):</p> <ul style="list-style-type: none"> (a) Ethnic, age group, and socio-economic composition of the District; (b) Business community (store owners, managers or supervisors); (c) Teachers; (d) Landowners or renters (preference to neighborhood association representatives); (e) Administrators; (f) Parents of students; and (g) Persons with expertise in environmental impact, legal contracts, building codes, land use planning (including local zoning and land use restrictions). 		

¹ This document provides a general overview and summary of the process required for the District to sell or lease surplus property, and is not intended to address all legal requirements. This overview also does not discuss other options such as joint use, joint venture or other possible alternatives.

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<p>4. Committee's duties:</p> <ul style="list-style-type: none"> (a) Review the projected school enrollment and other data 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 the priority list; (d) Provide for hearings of community input on acceptable uses, including sale or lease for child care development purposes per Education Code section 17458); (e) Make a final determination of limits of tolerance of use; and (f) Provide a report to the Board recommending a determination of whether real property is surplus space and real property (Ed. Code, § 17390). 		
<p>5. Committee Report should include:</p> <ul style="list-style-type: none"> (a) A determination highest and best use of property based, in part, on consultation with local zoning authorities to determine potential permissible uses; (b) Information based on a District-obtained appraisal of the property to assist in determination of the most profitable use and fair market value (Optional); and (c) Information based on a District-obtained title report to evaluate the effect of any restrictions, covenants or reversionary clauses (Optional). 		
<p>6. Board considers recommendations of Committee and adopts resolution regarding intended disposition of real property, if any.</p>		
II. OFFERS TO CHARTER SCHOOLS--OPTIONAL		

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1. If any charter school operating in the District has requested that the District provide it with facilities to accommodate the charter school's in-district students, the District shall make available facilities that are reasonably equivalent to those in which the students would be accommodated if they were attending other public schools of the District. (Ed. Code § 47614.) Offering a closed site is not required.		
III. OFFERS TO PUBLIC ENTITIES		
1. District must provide notice to the local planning commission of its intent to sell or lease the property (Gov. Code, § 65402). Planning commission has forty (40) days to determine whether the disposition is conformity within an applicable adopted general plan or the disposition is conclusively deemed in compliance with the general plan. (Disapproval of the disposition may be overruled by District.)		
2. <u>Child Care Development Agencies (Optional)</u> : Offer property for sale or lease to a contracting agency as defined in Education Code section 8208 for exclusive delivery of child care and development services for a period of not less than five (5) years. (Ed. Code, § 17458).	Not Required	
3. <u>Vacant Classrooms</u> : If the District intends to lease vacant classrooms, Board must first adopt Resolution of Intention and offer the classrooms to special education programs provided by other districts within its SELPA or by the county office of education (See Ed. Code, § 17465). After following the procedures set forth in Education Code section 17465, the District may proceed to Section III (Public Bidding).		

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III. OFFERS TO PUBLIC ENTITIES (Cont.)		
<p>4. <u>Recreational Property (Naylor Act)</u>: If all or a portion of the property consists of land that has been used for at least 8 years for playground, playing fields, or other outdoor recreational purposes and is open space particularly suited for recreational purposes, the sale or lease must be treated in accordance with the Naylor Act (Ed. Code, § 17485, et seq.):</p> <ul style="list-style-type: none"> (a) Offer for sale or lease to the city, any park or recreational district, any regional park authority, or the county in which the land may be situated (Ed. Code, § 17489); (b) Maximum sale price: cost of acquisition, adjusted by the consumer price index, plus cost of any improvement to the open space portion of the land made by the District since acquisition; (c) Minimum sale price: 25% of fair market value; (d) Lease rate: annual rate may not exceed 1/20th of the maximum sale price (Ed. Code, § 17491); (e) Maximum acreage: Not more than 30% of the total surplus school acreage (Ed. Code, § 17499). (f) The District may retain any portion of the school site containing structures or buildings together with adjacent land necessary to avoid reducing the value of the land containing buildings to less than 50% of fair market value. (Ed. Code, § 17490). (g) The public agency's governing body must make a finding, by a 2/3rds vote, that public lands in the vicinity of the school site are inadequate to meet the need for a playground, playing field, or other outdoor recreational and open space purposes. (Ed. Code, § 17492.) 	<p>Naylor Act may not be applicable if terms for lease of site require leasing entity to continue open public recreational use of site through existing joint use agreement.</p>	

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III. OFFERS TO PUBLIC ENTITIES (Cont.)		
<p>5. Make written offer for sale or <u>lease with option to purchase</u> for park, recreational or open space purposes (if the property is suited for such purposes) as follows:</p> <ul style="list-style-type: none"> (a) To any park or recreation department of the city and county in which the property is situated; (b) To any regional park authority with jurisdiction over the property; and (c) To any applicable State Resource Agency (Ed. Code, § 17464, subd. (a), Gov. Code, § 54220). <p>These agencies have sixty (60) days to respond to the District's offer. If one or more parties respond, the parties must then enter into good faith negotiations for a period of sixty (60) days. If the parties are unable to reach agreement within sixty (60) days, the District may extend the offer to the next group of public agencies. (Gov. Code, § 54222, 54223.)</p>	<p>If property is to be leased only (not sold or leased with option to purchase) skip to Part IV of checklist.</p>	

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III. OFFERS TO PUBLIC ENTITIES (Cont.)		
<p>6. Offer for sale or <u>lease with option to purchase</u> at fair market value:</p> <p>(a) In writing and mailed no later than the date of the second publication notice (see (b)) to the following:</p> <ul style="list-style-type: none"> i. Director of General Services; ii. UC Regents; iii. Trustees of the California State University; iv. City in which property is located; v. County in which property is located; vi. Public housing authority in the county where property is located (Ed. Code, § 17464, subd. (b)(1)); vii. To any public district, public authority, public agency, public corporation, or any other political subdivision in the state, the federal government, and specified nonprofit charitable organizations of the state that has submitted a written request to be notified of the offer. <p style="text-align: center;"><u>and</u></p> <p>(b) By public notice addressed to any public district, public authority, public agency, public corporation, or any other political subdivision in the state, federal government, and to nonprofit charitable corporations by:</p> <ul style="list-style-type: none"> i. Publication of notice of intent to sell or lease the property in a newspaper of general circulation in the District once a week for 3 successive weeks. <p>(c) Any public entity has sixty (60) days from the date of the third publication to notify the District of its intent to purchase or lease the property.</p> <p>(d) If the parties do not agree on mutually satisfactory terms, the District may proceed to public bidding of the property. If the District receives offers from more than one public agency, the Board may exercise its discretion to determine which offer to accept and may negotiate the terms of acceptance (Ed. Code, § 17464, subd. (b)(2)).</p>		

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IV. PUBLIC BIDDING FOR SALE OR LEASE OF SURPLUS PROPERTY		
1. Before ordering the sale or lease of any property, the Board must adopt, at a regularly scheduled public meeting, a declaration of intention to sell or lease surplus property by a 2/3 vote of all board members (Ed. Code, § 17466).		
<p>2. Resolution of Intention to Sell or Lease Surplus Property must include (Ed. Code, § 17466):</p> <ul style="list-style-type: none"> (a) Description of property proposed to be sold or leased; (b) Minimum sale price or rental (based on appraisal, use, zoning considerations); (c) Terms and conditions of sale; (d) Commission or rate, if any, the District will pay licensed real estate broker out of the minimum sale price or rental (Ed. Code, § 17468); and (e) Time and place in which sealed bids will be received and considered by the Board. <ul style="list-style-type: none"> i. The bid opening must be at least 3 weeks after the date on which the Board adopted the Resolution of Intention. ii. Before finalizing bid documents, consider conferences with prospective bidders to determine what terms and conditions may be acceptable on the open market. 		
3. If the property is to be sold, the District must send notice of the public meeting at which the Resolution of Intention will be considered by certified mail to the previous owner of the property at least 60 days prior to the public meeting (Ed. Code, § 17470).		

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IV. PUBLIC BIDDING FOR SALE OR LEASE OF SURPLUS PROPERTY (Cont.)		
<p>4. Give notice of the adoption of the Resolution of Intention and the time and place of holding the public meeting/bid opening:</p> <p>(a) Post copies of the Resolution signed by at least a majority of the Board in 3 public places in the District, not less than 15 days before the date of the meeting; and</p> <p>(b) Publish the notice not less than once a week for 3 successive weeks in a newspaper of general circulation in the District (Ed. Code, § 17469).</p>		
<p>5. At the time and place of the public meeting established by the Resolution of Intention:</p> <p>(a) All sealed proposals that have been received by the District shall, in public session, shall be opened, examined, and declared by the Board (Ed. Code, § 17473);</p> <p>(b) After opening the written bids, the Board must call for oral bids and consider oral bids at least 5% above the highest written bid (Ed. Code, § 17473);</p> <p>(c) The highest bid conforming bid made by a responsible bidder must be accepted unless the Board rejects all bids (Ed. Code, §§ 17472, 17473, 17476).</p> <p>(d) An oral bid may not be accepted before it is reduced to writing (Ed. Code, § 17473).</p> <p>(e) The Board may accept the winning bid immediately or within 10 days (Ed. Code, § 17475).</p> <p>(f) Acceptance and award must be done with a Resolution of Acceptance, which shall direct the Board President (or other presiding officer, or a specified member) to execute a deed or lease and deliver it upon performance of terms and conditions precedent (Ed. Code, § 17478).</p>		

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IV. PUBLIC BIDDING FOR SALE OR LEASE OF SURPLUS PROPERTY (Cont.)		
<p>6. Lease only: If the District intends only to lease the property, has complied with all requirements through notice and solicitation of bids, and has received no conforming proposals:</p> <ul style="list-style-type: none"> (a) The District may then enter into a lease with any lessee; (b) For an amount not less than fair market value; (c) On such terms and conditions as may be agreed upon by the District and the lessee; (d) That does not exceed a term of 3 years; and (e) With Board approval of the lease by simple majority vote (Ed. Code, § 17477). <p>The Board may by majority vote delegate an officer or employee of the District, or any other third person, to secure a lessee and negotiate the terms and conditions of the lease. However, the lease shall not be executed unless the Board by majority vote, at a public meeting, approves the lease.</p>		
V. OTHER ISSUES		
<p>1. Evaluate whether compliance with California Environmental Quality Act ("CEQA") is necessary (Pub. Res. Code, § 21000, et seq.).</p>		

