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Memo

To Board of Education

From Kyla Johnson-Trammell, Superintendent
Michael L. Smith, Interim General Counsel

Board Meeting Date 5/8/2019

Subject Amendment, Board Policy – Business and Noninstructional Operations – BP 3280 Sale, Lease, Rental of District-Owned Real Property and Renaming Board Policy to BP 3280 Sale or Lease of District-Owned Real Property

Action Requested and Recommendation Approval by the Board of Education of amendments to Board Policy – Business and Noninstructional Operations – BP 3280 Sale, Lease, Rental of District-Owned Real Property and Renaming Board Policy to BP 3280 Sale or Lease of District-Owned Real Property

Background and Discussion Periodically modifications to board policies are recommended to align with changes in law or recommended best practices. The proposed modifications to the board policies reflect the District’s standards and are based on the California School Boards Association’s model policies.

The changes to the policy are shown on the attachment. The proposed deletions are indicated with **blue strikeouts**. The recommended additions are shown in **red**.

Fiscal Impact No direct funding implications

Attachments Board Policy BP 3280 Sale, Lease, Rental of District-Owned Real Property

OAKLAND UNIFIED SCHOOL DISTRICT

Board Policy

Business and Noninstructional Operations

BP 3280

Sale, Or Lease, ~~Rental of~~ Of District-~~owned~~ Owned Real Property

The Governing Board ~~shall dispose of~~ believes that district ~~property whenever it is apparent~~ facilities and resources should be utilized in an economical and practical manner. The Superintendent or designee shall periodically study the current and projected use of all district ~~will have no further use for it. If property currently unused will be needed at some future time,~~ facilities to ensure the Board may lease it to a governmental or private agency or individual. (~~Education Code 17453-~~ 17455-17484)

~~When required by law,~~ efficient utilization of space for 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)

The Board shall appoint a district advisory committee prior to the sale or lease of any surplus real property to advise the Board ~~in the development of policies and procedures governing~~ regarding the use or disposition of schools or school building space which is not needed for school purposes. (~~Education Code 17388~~ 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 Board may elect not to appoint a district advisory committee. (Education Code 17387-17391))

~~The District shall first offer to sell surplus district property to a charter school that projects an in-district average daily attendance of at least 80 students, has requested to be notified of surplus property to be offered for sale or lease, and intends to use the property exclusively to provide instruction or instructional support.~~

~~When surplus property is not sold to a charter school, the Board shall offer to sell or lease it, with an option to buy, in accordance with~~ *(cf. 1220 - Citizen Advisory Committees)*

If the local planning agency has adopted a general plan that affects or includes the area where the surplus property is located, the Board shall submit a report to the local planning agency describing the location of the surplus property and the purpose and extent of the proposed sale or lease. (Government Code 65402)

The Board shall determine whether the sale or lease of the surplus property is subject to review under the California Environmental Quality Act. (Public Resources Code 21000-21177; 14 CCR 15061-15062)

When selling or leasing district real property, the Board shall comply with the priorities set forth in and procedures specified in applicable law. (Education Code 17230, 17464 and 17230 and in 17485-17499; Government Code 54222.)

~~Any lease or sale made by the Board will conform in all particulars to the provisions of law.~~

~~(cf. 5148 - Child Care and Development)~~

~~(cf. 5148.2 - Before/After School Programs)~~

~~(cf. 5148.3 - Preschool/Early Childhood Education)~~

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

Resolution of Intention to Sell or Lease

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

~~(cf. 9320 - Meetings and Notices)~~

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

In accordance with Education Code 17470, 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.

Acceptance/Rejection of Bids

At the public meeting specified in the resolution of intention to sell or lease property, the Board shall open, examine, and declare all sealed bids. Before accepting a written proposal, the Board

shall call for oral bids in accordance with law. (Education Code 17472, 17473)

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

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

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

(cf. 1431 - Waivers)

Use of Proceeds

The Superintendent or designee shall ensure that the proceeds from the sale or lease with an option to purchase of surplus district property are used for one-time expenditures and not for ongoing expenditures such as salaries and general operating expenses. (Education Code 17462)

Proceeds from a sale of surplus district property shall be used for capital outlay or maintenance costs that the Board determines will not recur within a five-year period. (Education Code 17462)

Proceeds from a lease of district property with an option to purchase may be deposited into a restricted fund for the routine repair of district facilities, as defined by the SAB, for up to a five-year period. (Education Code 17462)

If the Board and SAB determine that the district has no anticipated need for additional sites or building construction for the next 10 years and no major deferred maintenance requirements, the proceeds from the sale or lease with an option to purchase may be deposited in a special reserve fund for the future maintenance and renovation of school sites or in the district's general fund. Proceeds from the sale or lease with option to purchase of district property may also be deposited in a special reserve fund for capital outlay or maintenance costs of district property that the Board determines will not recur within a five-year period. (Education Code 17462)

(cf. 3100 - Budget)

(cf. 3460 - Financial Reports and Accountability)

Legal Reference:

EDUCATION CODE

[8469.5 Use of school facilities or grounds for school age child care](#)

[17022 Approval of new facilities](#)

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*

[17406 Right of district to lease property under lease providing for construction of building](#)

[17400-17429](#) *Leasing property*

[17430-17447](#) *Leasing facilities*

17453 *Lease of surplus district property*

17455-17484 *Sale or lease of real property, especially:*

[17462.3](#) *State Allocation Board program to reclaim funds*

[17485-17500](#) *Surplus school playground (Naylor Act)*

17515-17526 *Joint occupancy*

17527-17535 *Joint use of district facilities*

[38134 Groups which may use school facilities without charge; charges for use by other groups](#)

[33050](#) *Requ*

[38130-38139](#) *Civic Center Act*

GOVERNMENT CODE

[50001-50002](#) *Definitions*

[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:

[CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS](#)

[Closing a School Best Practices Guide](#)

[OFFICE OF PUBLIC SCHOOL CONSTRUCTION PUBLICATIONS](#)

[Unused Site Program Handbook, December 2015](#)

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.dgs.ca.gov/opsc>

7/14/04; 8/13/14A; 10/8/14A; [5/8/19A](#) (if adopted)

OAKLAND UNIFIED SCHOOL DISTRICT

Board Policy

Business and Noninstructional Operations

BP 3280

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(cf. 7110 - Facilities Master Plan)

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(cf. 5148 - Child Care and Development)

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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:

17462.3 State Allocation Board program to reclaim funds

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38130-38139 Civic Center Act

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