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**OAKLAND UNIFIED
SCHOOL DISTRICT**
Community Schools, Thriving Students

Memo

To Board of Education

From Joshua R. Daniels, General Counsel

Committee Meeting Date December 13, 2019

Subject Revisions to Board Policy 3280 - Sale, Lease, Rental of District-owned Real Property

Action Approve revisions to Board Policy 3280 - Sale, Lease, Rental of District-owned Real Property

Background Board Policy 3280 - Sale, Lease, Rental of District-owned Real Property establishes when the District must appoint a district advisory committee (commonly known as a 7-11 Committee) before considering whether to sell or lease of District real property as well as the procedures the District must follow when selling or leasing surplus real property.

Discussion The need to ensure that BP 3280 is up to date and accurate is due to the existing 7-11 Committee process, which is expected to conclude soon. The proposed revisions are primarily based on the CSBA sample policy of the same number and name. Additional revisions include information learned through the existing 7-11 Committee process.

Fiscal Impact N/A

Attachment Proposed Revisions to BP 3280 - Sale, Lease, Rental of District-owned Real Property (Redline)
Proposed Revisions to BP 3280 - Sale, Lease, Rental of District-owned Real Property (Clean)

OAKLAND UNIFIED SCHOOL DISTRICT

Board Policy

BP 3280

Business and Noninstructional Operations

Sale, Lease, Rental of District-owned Real Property

The Governing Board shall ~~dispose of~~sell or lease district property whenever it is apparent the district will have no further use for it. ~~If property currently unused will be needed at some future time, the Board may lease it to a governmental or private agency or individual. (Education Code 17453, 17455-17484)~~

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)~~

~~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 the priorities set forth in Education Code 17464 and 17230 and in Government Code 54222.~~

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

Board shall appoint a district advisory committee prior to the sale or lease of any surplus real property to advise the Board regarding the use or disposition of District real property which is not needed for school purposes. However, the Board need not create a district advisory committee prior to using its real property for any of the following purposes:

- Child care and Development Services, pursuant to Education Code section 17458
- Joint Occupancy, pursuant to Education Code section 17515 et seq.
- Joint Use, pursuant to Education Code section 17527 et seq.
- Joint Venture with other types of entities, pursuant to Education Code section 17060 et seq.
- Joint Venture-Housing, pursuant to Health and Safety Code section 53570 et seq.
- Lease to a private school for summer school purposes, pursuant to Education Code section 17391
- Leases of 30 days or less, pursuant to Education Code section 17480
- Property Exchange, pursuant to Education Code section 17536 et seq.
- Public-private partnership for fee generating infrastructure, pursuant to Government Code 5956 et seq. and Education Code section 17391

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. The Board shall also determine whether the sale or lease of the surplus property is subject to review under the California Environmental Quality Act.

When selling or leasing district real property, the Board shall comply with the priorities and procedures specified in applicable law.

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.

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.

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.

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.

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.

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.

Use of Proceeds

The Superintendent or designee shall ensure that the proceeds from the sale or lease be used for either of the following purposes:

- To pay for capital outlay or maintenance costs that the Board determines will not recur within a five-year period, or
- To service, reduce, or retire the debt on the emergency apportionment loan until the emergency apportionment loan is repaid.

Additionally, if the Board and State Allocation Board 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.

Legal Reference:

EDUCATION CODE

~~8469.5 Use of school facilities or grounds for school age child care~~

~~17022 Approval of new facilities~~

~~17219 Acquisition of property not utilized as school site; nonuse payments; exemptions~~

~~17230 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~~

~~17453 Lease of surplus district property~~

~~17455-17484 Sale or lease of real property~~

~~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~~

GOVERNMENT CODE

~~54222 Offer to sell or lease property~~

Legal Reference:

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, 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

33050 Request Waiver

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

7/14/04; 8/13/14A; 10/8/14A; 1/8/20A

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