



## WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT

7-11 Committee Meeting

March 5, 2024

6:00 PM

**Staff:** Luis Freese (Associate Superintendent, Operations)

**Agenda Documentation:** Committee meeting agendas are available for review at the Facilities Operations Center (1400 Marina Way S, Richmond, CA 94804) and online at <http://www.wccusd.net>.

Documents that are public records will be made available for public inspection in the District office located at 1400 Marina Way S, Richmond, CA 94804, during regular business hours. In addition, such writings and documents may be posted on the District's website when the agenda is posted.

District Committees webpage (<https://www.wccusd.net/domain/1445>)

District 7-11 Committee webpage (<https://www.wccusd.net/Page/15623>)

**Meeting Location:** 1400 Marina Way S, Richmond, CA 94804.

You can attend the meeting in person. The meetings are also broadcast via Zoom using the following link:

**By computer, please click the link below to join the webinar:**

<https://wccusd.zoom.us/j/96114623120>

**Or Telephone:** (669) 444 9171

Webinar ID: 961 1462 3120

### **Participating in Committee Meetings:**

The public will have different opportunities to address the Committee. The Public can address the Committee during Public Comment and before an Action or Discussion item. The public can provide public comment in person, through the Zoom app, and by telephone. Public Comment will last approximately 10 minutes. The time allotted for each speaker is 2 minutes. If you are attending the meeting in person, you will need to submit a Request to Address the Board form to indicate your desire to speak during public comment on a non-agenda item before the item begins on an agenda item. If participating via Zoom, you will need to "raise your hand" by clicking on the appropriate icon in the Zoom app or by pressing \*9 if accessing the meeting by phone. No "Yielding of time" or Substitution of Speaker" is permitted. The public will have an opportunity to make public comments on agenda items after the presentation for each discussion and action item. The time allotted for public comment on each action or discussion item and items not discussed on the agenda will be no more than 10 minutes and 2 minutes per speaker.

Due to the Brown Act, Committee members cannot discuss items not on the agenda and do not usually respond to items presented in Public Comment.

Special Accommodations: Upon written request to the District, disability-related modifications or accommodations, including auxiliary aids or services, will be provided. Please contact the Facilities Office at 510-307-4545 at least 48 hours in advance of meetings.

**Order of Business:** ORDER OF BUSINESS MAY BE CHANGED WITHOUT NOTICE

### MEETING AGENDA

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#### **A. OPENING PROCEDURES**

- A.1 Welcome & Introductions.**
- A.2 Approval of Agenda**

#### **B. PUBLIC COMMENT**

##### **B.1 Public Comment**

Members of the public are invited to speak on any matter related to the 7-11 Committee at this time. Members of the public may speak on individual items of interest in the agenda as the items are discussed.

**D. DISCUSSION ITEMS**

**D.1 Presentation of Robert's Rules of Order & Brown Act. Presented: Tami Dunning, Professional Parliamentarian**

**D.2 Presentation of the Overview of the 7-11 Committee. Presented: Orbach Huff Henderson**

**E. ACTION ITEMS**

**E.1 Election of 7-11 Committee officers. Moderated: Tami Dunning, Parliamentarian**

- a. Nominations and vote for Chairperson**
- b. Nominations and vote for Vice Chairperson**
- c. Nominations and vote for Secretary**

**E.2 Calendar for Future Committee Meeting Dates. Presented: Committee Chairperson**

- a. Discussion of Future Committee Meeting Dates.**
- b. Motion to Approve Future Meeting Dates and Vote.**

## **Debate Protocol**

### ***Under Robert's Rules of Order***

#### **Debate Protocol (Similar to a trial in front of a judge.)**

1. Only one person speaks at a time.
2. A speaker must be recognized before speaking.
3. All comments are made through the chair.
4. Comments are confined to the current issue.
5. Discussion should alternate between Pro and Con.
6. Have no right to complain; only have a right to make a motion.
7. No right to speak a 2<sup>nd</sup> time unless no one seeks to speak their 1<sup>st</sup> time.
8. No reading of lengthy papers.
9. No cross conversations; no interruptions, including in the chat.
10. No verbal attacks of other members.
11. If proper decorum cannot be maintained – call a recess.
12. Enforce the debate time limits (bylaws or the parliamentary authority).
13. Decisions are null and void in the absence of a quorum or proper posting.
14. The vote required to adopt a motion should always be very clear – majority or 2/3.
15. All decisions are binding on all members regardless of how a member voted.
16. All rules must be respected and obeyed – who can move, debate, vote.

#### **Move debate along by asking ...**

- Do you have anything to add on the pending question?
- Do you have anything to add that we have not heard before?
- Is there anyone else who wishes to speak who has not spoken yet?
- Do you wish to make a motion?
- Do you wish to amend (or postpone or refer) the motion?



**7-11 COMMITTEE**  
**BROWN ACT OF 1953**  
**CA GOVERNMENT CODE §54950-54963**  
**MARCH 2024**

Tamara Dunning  
Lorenzo Cuesta  
Professional Registered Parliamentarians  
C & D Parliamentary Services

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**Public Need Not Identify Self**

- A member of the public shall not be required as a condition of attendance to register or to supply any identification.
- If a sign in sheet is used, it shall clearly state that signing in is strictly **voluntary**.
- §54953.3

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**Agenda Packet**

- Any person may request in writing that a copy of the agenda, or a copy of all the documents constituting the agenda packet, be mailed to that person for a fee.
- §54954.1

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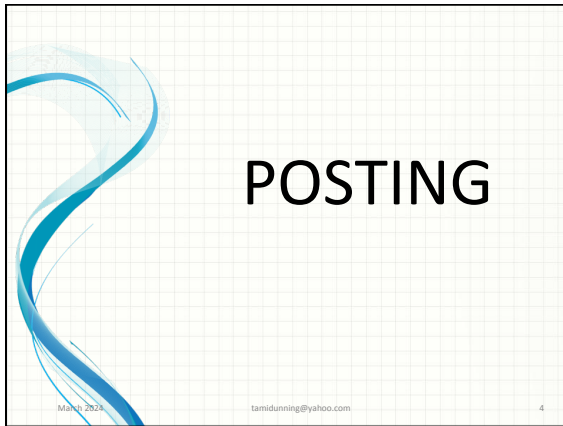
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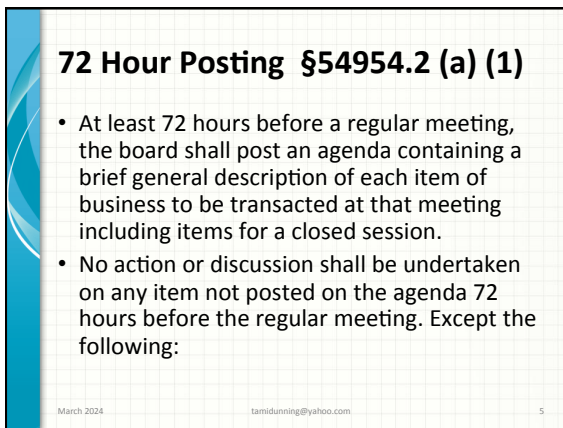
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### 72 Hour Posting §54954.2 (a) (1)

- At least 72 hours before a regular meeting, the board shall post an agenda containing a brief general description of each item of business to be transacted at that meeting including items for a closed session.
- No action or discussion shall be undertaken on any item not posted on the agenda 72 hours before the regular meeting. Except the following:

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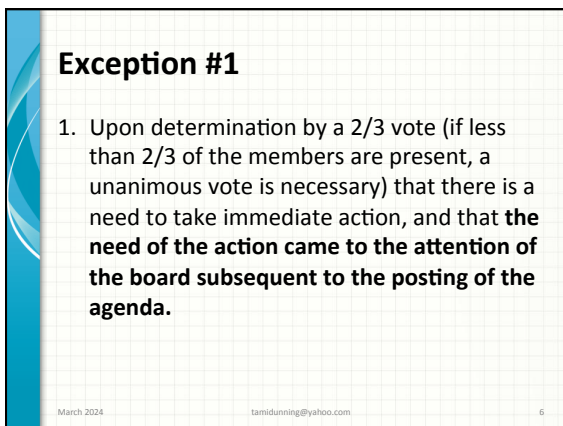
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### Exception #1

1. Upon determination by a 2/3 vote (if less than 2/3 of the members are present, a unanimous vote is necessary) that there is a need to take immediate action, and that **the need of the action came to the attention of the board subsequent to the posting of the agenda.**

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### What does that mean?

- **1) IS IT TIMELY?**
  - Do we need to take immediate action?
- **2) DID WE HAVE PRIOR KNOWLEDGE?**
  - Who knew and when?
- **3) DID WE FIND OUT AFTER THE AGENDA WAS POSTED?**
  - Can it wait for a Special Meeting?

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tamidunning@yahoo.com

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### Exception #2 & #3

2) The item was posted for a prior meeting that occurred not more than 5 days before and the prior meeting was continued to the current meeting.

3) Upon the determination by a majority vote that an emergency situation exists.

**Forgetting to post the agenda on time is NOT an emergency!**

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### Public may address the board (§54954.3 (a))

- Every agenda shall provide the public an opportunity to directly address the board. This is allowed before or during the board's consideration of an item.
- The public may speak on any topic that is within the subject matter jurisdiction of the board.
- However, the public need not be afforded an opportunity to speak on topics already discussed openly at a committee meeting where the public had an opportunity to speak.

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tamidunning@yahoo.com

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Where do  
agendas have  
to be posted?

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**§54954.2**  
The agenda shall specify the time and  
location of the regular meeting and  
shall be **posted in a location that is  
freely accessible to members of the  
public...**

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**AND**

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**§54954.2, continued**

**...on the local agency's  
Internet Web site, if  
the local agency has  
one.**

(Internet posting required as of January 1, 2019)

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**Time limits (§54954.3 (b))**

- The board may adopt regulations to limit the total amount of time allocated for a particular issue and for each speaker as included on the posted agenda.

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**Public speaking prohibitions  
(§54954.3 (c))**

- The board may not prohibit public criticism of policies, procedures, programs, services or acts of omissions.
- The Brown Act does not confer any privilege or protection for expression beyond that otherwise provided by law.

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### Special Meetings (§54956 (a))

- What goes on the agenda?
- When can you hold a Special Meeting?

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### Secret ballot (§54953 (c))

- No action shall be decided by secret ballot.
- Every member's vote must indicate for/against/abstain.

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### Teleconference (§54953 (b))

- The board may use teleconference for the benefit of the public in connection with any meeting or proceeding authorized by law.
- Teleconference devices may be used for all purposes within the subject matter jurisdiction.

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### Teleconference, continued

- All votes shall be taken by **roll call**.
- The board shall post the agenda at each teleconference site.
- Each teleconference site shall be ADA accessible to the public

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### Public may record (§54953.5 (a))

- Any person shall have the right to record the proceedings with audio or video or both.
- The recording cannot disrupt the meeting with noise, illumination, or obstruction.
- If the board records the meeting, the board shall allow the public to inspect it on the board's equipment for up to 30 days.

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tamidunning@yahoo.com

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### Closed session (§54954.5)

- Closed sessions are prohibited by the Brown Act except for 17 situations related to real property or labor negotiators, litigation, liability claims, employee (appointment, evaluation, or discipline), trade secrets, etc. (Notice that attorney-client privileges are limited.)
- The board shall report any action taken in closed session and the vote of each member.

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tamidunning@yahoo.com

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### Willful interruption (§54957.9)

- If any meeting is willfully interrupted so as to render the orderly conduct of the meeting unfeasible and order cannot be restored by removal of the problem individuals, the board may order the room cleared and continue the meeting.
- The board shall allow the press and individuals not causing the disturbance to reenter the meeting room.

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tamidunning@yahoo.com

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### Standing committees (§54952 (b))

- Regardless of composition, as long as it has a continuing subject matter jurisdiction, or a fixed meeting schedule by formal action, a standing committee falls under the Brown Act.

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### Conference fees (§54952.2 (c) (2))

- The public does not have free admission to a conference at which the organizer has required other participants to pay fees as a condition of attendance.

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## Public may broadcast (§54953.6)

- Any person shall have the right to broadcast the proceedings (audio and/or video.)
- The broadcast cannot disrupt the meeting with noise, illumination, or obstruction.

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tamidunning@yahoo.com

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## Is a group email a meeting?

- “Reply All” is NOT your friend

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## Serial Meetings



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### What about social media?

- Facebook
- Twitter
- Instagram
- Zoom
- Google Hangouts

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tamidunning@yahoo.com

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### CA Supreme Court Ruling on Public Records of Personal Accounts

- City of San Jose v. Ted Smith
- When a personal account is used to communicate the conduct of public business, the writing may be subject to disclosure under the CA Public Records Act

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tamidunning@yahoo.com

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### The issue

- Are writings concerning the conduct of public business beyond CPRA's reach merely because they were sent or received using a nongovernmental account?

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tamidunning@yahoo.com

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THE COURT UNANIMOUSLY SAID:

**NO**

WRITINGS ABOUT PUBLIC BUSINESS ARE NOT EXCLUDED FROM CPRA SIMPLY BECAUSE THEY HAVE BEEN SENT, RECEIVED, OR STORED IN A PERSONAL ACCOUNT.

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**Courts (§54960.5)**

- A court may award court costs and reasonable attorney fees to the plaintiff (the public) if it finds that the board has violated the Brown Act.
- Similarly for the defendant (the board) where the court finds the action brought to the court was clearly frivolous and totally lacking in merit.

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**Cure & Correct (§54960.1)**

- Prior to any action being commenced, the district attorney or interested person shall make a demand of the legislative body to cure or correct the action alleged to have been taken in violation
- The demand must be in writing with in 90 days

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### Cure & Correct, continued

- Within 30 days of receipt of the demand, the legislative body shall cure or correct the challenged action and inform the demanding party in writing of its actions to cure or correct or inform the demanding party in writing of its decision not to cure or correct the challenged action.

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tamidunning@yahoo.com

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### Cease & Desist (§54960.2)

- The district attorney or interested person alleging a violation of this chapter first submits a cease and desist letter by postal mail or facsimile transmission to the clerk or secretary of the legislative body
- Must be submitted to the body within nine months of the alleged violation.

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tamidunning@yahoo.com

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### Cease & Desist, continued

- Unconditional commitment to cease and desist, and not repeat the past action that is alleged to be violated.
- Unconditional commitment letter must substantially follow the letter in the Brown Act §54960.2(c)(1).

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tamidunning@yahoo.com

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Questions?

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tamidunning@yahoo.com

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# Asset Management Advisory (7-11) Committee: Role and Responsibilities

Phil Henderson & Sarine Abrahamian  
phenderson@ohhlegal.com  
sabrahamian@ohhlegal.com  
Orbach Huff & Henderson



## 7-11 Committee Overview

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- **Board Appointed.** Before the District disposes of excess real property, it can appoint a 7-11 Committee (“Committee”) to advise the District in the development of districtwide policies and procedures governing the use or disposition of excess real property. (Ed. Code §17388.)
- **Members.** 7 and 11 members of the community. (Ed. Code §17389.)
- **Duties of Members.** Determine the amount of surplus space/real property available, establish a priority list for its use, provide community input on acceptable uses, and forward its recommendations to the Board (Ed. Code §17387, et seq.)
- **Recommendation Report.** Forward to the Board a recommendation report uses (Ed. Code § 17390)



## Formation of 7-11 Committee

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- Board takes action to authorize the formation of 7-11 Committee
- District prepares and posts application form for the public to apply for the Committee
- Applications received; Board appoints members



# Criteria for Appointing Committee Members

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- Per Education Code section 17389, the Asset Management Committee must be between 7 and 11 members and representative of the following:
  - Ethnic, age group, and socioeconomic composition of the district
  - Business community (i.e. store owners, managers, or supervisors)
  - Landowners or renters (Preference to be given to representatives of neighborhood associations)
  - Teachers
  - Administrators
  - Parents of students
  - 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



# Role of the Advisory Committee

- Per Education Code section 17390, the Advisory Committee must do all of the following:
  - Review the projected school enrollment, and other data as provided by the district, to determine the amount of surplus space and real property;
  - Establish a priority list of use of surplus space and real property that will be acceptable to the community;
  - 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;
  - Make a final determination of limits of tolerance of use of space and real property; and
  - Forward to the District governing board a report recommending uses of surplus space and real property.



# Overview of Meetings/Next Steps

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- Information Presented to 7-11 Committees include:

- Districtwide Enrollment Data
- District Budgetary Considerations/Information
- Valuation Data
- Property Condition/Maintenance Reports



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## **After Committee Recommendations Received: Process for Board to Surplus Properties (Sale or Long-Term Lease)**



# Surplus Property Disposition Process – Post Committee Recommendation

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- **Surplus.** Board declares property surplus by adoption of resolution
  - **Public Offerings/Notice.** Properties are offered to public entities as follows:
    - To local and state entities, UC Regents, CSU, public housing authority, etc.
      - ▮ By Newspaper publication of resolution for three (3) successive weeks
      - ▮ By direct, mailed notice
    - Notice to local Planning Agency
    - The Naylor Act applies when the property has been used entirely or partially for school playgrounds, playing fields, or other outdoor recreational uses.
    - Depending on which agency, has 40 or 60 days to respond
- (Ed. Code §17485 et seq.; Ed. Code §33050; Ed. Code §17464; Gov. Code §65402)





## Surplus Property Disposition Process, cont'd

- If no offers are received by public entities or no agreement is reached with a public entity, then move to public bidding. (Ed. Code §17464)
- **Formal Bidding.** Steps for formal bidding for highest price.
  - Board adopts resolution of intent to lease or sell which must include property description, minimum price, terms and conditions of sale or lease, and date bids will be considered. (Ed. Code §17466)
  - District must provide notice to previous owner (Ed. Code §17470)
  - District must post and publish notice of bid (Ed. Code §17469)
  - Bid opening – Occurs on day and time set forth in the resolution (Ed. Code §17473)
  - Open session bid opening
  - Oral bids also considered



# Surplus Property Disposition Process: Waiver

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- (Optional) Request a Waiver. The Board may, after a public hearing and other specified procedures, request that the State Board of Education waive the surplus steps outlined in the prior slides, the public offering steps and/or the formal bidding steps. (Ed. Code §33050.)
- If waiver of public offering and/or formal bidding requirements granted, options may include listing property for sale or lease or disposing of property through a Request for Proposal (RFP) process.



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## Alternatives to Surplus: Short and Long-Term Lease



## School Site Disposition: Alternatives to Surplus Property Process

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- Other options for a vacated site (no need to surplus)
  - Joint Use (Ed. Code §17527, et seq.)
  - Joint Occupancy (Ed. Code §17515, et seq.)
  - Exchange (Ed. Code §17536, et seq.)
  - Fee-producing infrastructure facilities (Gov. Code §5956, et seq.)
  - Keep it vacant



# School Site Disposition: Alternatives to Surplus Property Process

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- Other Exceptions to Surplussing
  - Employee Housing Projects (Ed. Code §17391(b))
  - Non-School Facilities (Ed. Code §17391(c))



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## Options for Use of Sale or Lease Proceeds by Districts



## School Site Disposition – Use of Proceeds

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- **Lease:** Proceeds may be used in any way the Board directs.
- **Lease with option to purchase:** “[M]ay be deposited into a restricted fund for the routine repair of district facilities, as defined by the State Allocation Board, for up to a five-year period.” (Ed. Code §17462.)
- **Sale:**
  - “[S]hall be used for capital outlay or for costs of maintenance of school district property that the governing board of the school district determines will not recur within a five-year period.” (Ed. Code §17462.)
  - a “one-time” use, if the District can comply with certain provisions and abide by certain restrictions. (Ed. Code §17463.7.)



## School Site Disposition – Sale Proceeds “one-time general fund purpose”

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- SB 820 (Education Finance bill) was signed by Gov. Newsom on Sept. 18, 2020.
  - Applicable if the original purchase was made using “nonstate” funds.
  - Board must adopt a plan regarding the one-time use.
  - The Board must certify to the State Allocation Board (SAB) that:
    - ▤ The sale does not violate the provisions of a local bond; and
    - ▤ The property is not suitable to meet projected school construction needs for the next ten (10) years.
- Applies to transactions initiated before June 30, 2024.

(Ed. Code §17463.7.)





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Phil Henderson & Sarine Abrahamian  
phenderson@ohhlegal.com  
sabrahamian@ohhlegal.com  
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