

**CONCEPT AND RULES IN NEW CONSTRUCTION**

Providing the proper school plant facilities is a major responsibility of the Board of Trustees and the district administration. The design of the school plant, adequacy of space, and flexibility of use all combine to inhibit or enhance the instructional program.

Since school construction is costly, and buildings when constructed become a permanent part of the community to be used by large numbers of people, great care must be taken to make certain that the facilities will fully support the intended educational community programs.

*Legal Reference:*

EDUCATION CODE

*17210-17224 General provisions (school sites)*

*17260-17268 Plans of schoolhouses*

*17280-17317 Approval of plans and supervision of construction*

*17340-17343 Building of schoolhouses*

*17350-17360 Factory-built school buildings*

*17365-17374 Fitness of buildings for occupancy; liability of board members*

*17400-17429 Leasing of school buildings*

CODE OF REGULATIONS, TITLE 5

*14001 Minimum standards*

*14010 Procedure for site acquisition*

*14030 Preliminary procedure, planning and approval of school facilities*

*14031-14032 Submissions to bureau of school facilities planning; approval*

**CONCEPTS AND ROLES IN NEW CONSTRUCTION**

**Board of Trustees**

The Board of Trustees

1. Decides what buildings shall be built, when and where, and what equipment shall be purchased for them.
2. Decides on the additions to buildings or any major alterations.
3. Selects and purchases school sites for future plant expansion.
4. Selects and employs school architects and building inspectors as (where) needed.

**Superintendent of Schools**

The Superintendent of Schools

1. Supervises the development of the building program of the district in accordance with the rules and regulations as set forth by the Division of the State Architect.
2. Directs the planning of all educational features of new buildings or alterations of old buildings.
3. Accepts general responsibility for the adequate completion of the building program in accord with the educational needs of the district.
4. Acts as authorized agent with various governmental officials in the building program.

**Superintendent or Designee**

The Superintendent or designee develops educational specifications and building planning up to the time of the award of contract.

**PLANNING**

A school district facilities master plan will be maintained and kept up to date. The school district facilities master plan will reflect the needs of current instructional procedures and projected educational programming. The master plan will incorporate population projections, enrollment projections, site acquisition needs, school plan placement, and determination of financial needs for providing the necessary school facilities. The master plan shall be developed in cooperation with appropriate local government, recreation and park authorities in order to achieve greater use of recreation or park facilities by the school children, and possible use by the total community of such school facilities.

*Legal Reference:**EDUCATION CODE**35275 New school planning and design**39101 Powers (State Department of Education) concerning buildings and building sites*

**DETERMINING NEEDS**

The significance of providing school facilities that enhance the district's educational program is recognized by the Board of Trustees. To assure a comprehensive approach to projecting and planning needs, at least the following aspects of need will be considered:

1. The expanding and changing educational program of the district.
2. Relations with the total community, and projected developments in those relationships over the school. Particular care will be taken to permit greater use by school children of park and recreational facilities and use by the total community of school facilities.
3. Plant and site aesthetics as they affect the education of students and feelings of people about their schools.
4. Changing make-up of our population as to age distribution and educational levels.
5. Community planning and zoning.
6. Financial ability of the school district.
7. Safety and welfare of students.
8. Relationship between the projected new facilities and those already in existence.
9. True economy reflecting full value for each tax dollar expended.

The Superintendent of Schools is directed to establish arrangements and procedures as he/she may consider necessary to determine such needs. The Superintendent should draw upon a wide range of resources.

*Legal Reference: (see next page)*

**DETERMINING NEEDS (continued)**

*Legal Reference:*

EDUCATION CODE

16011 Long-range comprehensive master plan

16322 California Department of Education services

17017.5 Approval of applications for projects

17070.10-17079.30 Leroy F. Greene School Facilities Act

17251 Powers and duties of California Department of Education

17260-17268 Plans and specifications for school facilities

17280-17317 Field Act

17365-17374 Fitness for occupancy

17405 Relocatable structures; lease requirements

35275 New school planning; cooperation with recreation and park authorities

GOVERNMENT CODE

53090-53097.5 Regulation of local agencies by counties and cities

65352.2 Communicating and coordinating of school sites

65995.6 School facilities needs analysis

CODE OF REGULATIONS, TITLE 2

1859-1859.199 Leroy F. Greene School Facilities Act

CODE OF REGULATIONS, TITLE 5

14001 Minimum standards

14010 Site selection standards

14030-14036 Standards, planning, and approval of school facilities

CODE OF REGULATIONS, TITLE 24

101 et seq. Green building standards code

UNITED STATES CODE, TITLE 42

12101-12213 Americans with Disabilities Act

CODE OF FEDERAL REGULATIONS, TITLE 28

35.101-35.190 Americans with Disabilities Act

**PROJECTING EDUCATIONAL PROGRAMS**

Projecting educational programs shall be the responsibility of the Superintendent of Schools.

Planning for new school construction shall be based on educational program recommendations which have been approved by the Board of Trustees. Facilities shall be planned so as to accommodate future changes in the educational program.

**FORECASTING ENROLLMENT**

Enrollment forecasts shall be prepared under the direction of the superintendent, utilizing current enrollment information supplemented with data furnished by the county and/or city planning office.

**Determining Extent of New Construction**

The extent of new construction shall be determined by the increase in enrollment, by adopted pupil-teacher ratios, by changing educational programs, by the condition of existing facilities, and within present and projected budgetary limitations.

**Developing Educational Specifications**

To ensure that facilities being planned are designed best to implement the educational program, the superintendent will provide for the establishment of educational specifications to apply when planning and building, or leasing, permanent or temporary school facilities.

The educational specifications will include at least the following:

1. Description of the pupils to be housed (e.g., age level, number).
2. The kinds of educational activities to be carried on.
3. The kinds and amount of furniture and equipment needed.
4. The relationship among areas of plant and site.
5. Special site considerations (cooperative community use, traffic patterns, etc.).
6. Any other kinds of information which will give guidance to an architect in arriving at a solution (e.g., special electrical or plumbing needs).

**FORECASTING ENROLLMENT**

Methods for forecasting enrollment shall consist of at least the following:

1. Periodic student census.
2. Principals' reports for current enrollment.
3. Review and evaluation of proposed rezoning.
4. Review of approved building permits.
5. Information available from builders and developers.
6. Reports indicating anticipated and approved number of dwelling units resulting from submitted site plans.

**RELATIONS WITH OTHER GOVERNMENTAL UNITS**

The Board of Trustees will work with city, county, state, and federal agencies as prescribed by law, and will in addition cooperate with all governmental units in order to provide the best possible school facilities while obtaining the greatest efficiency and economy in the use of the tax dollar.

*Legal Reference:*

EDUCATION CODE

*10700-10703 Roads to schoolhouses (re contracts with separate agencies)*

*35275 New school planning and design (re cooperative relations with local government recreation and park authorities)*

*39011 Agreements concerning utilities furnished to school district*

*39140-39156 Approval of plans and supervision of construction (relations with Department of General Services)*

*39244-39252 Lease and lease-purchase of sites, buildings and facilities*

**RELATIONS WITH LOCAL AGENCIES**

The Governing Board recognizes the importance of collaborating and communicating with other local agencies in order to provide the best possible school facilities and to allocate facility resources in an effective and efficient manner. The Board and district staff shall consult and coordinate with local agencies as required by law and whenever the expertise and resources of these agencies can assist the district in the planning, design and construction of facilities.

Following notification by a city or county of proposed action to adopt or substantially revise a general plan, the Board may request a meeting with the local planning agency to discuss possible methods of coordinating planning, design and construction of new school facilities and school sites. (Government Code 65352.2)

The Superintendent or designee shall monitor land development proposals within district boundaries and shall ensure that an exchange of accurate information is maintained with city/county planning staff regarding the impact of land development on the district's educational programs and facility needs.

Recognizing that available funds may not suffice to eliminate overcrowding in district schools caused by new development, the Board urges the city/county to adopt in its general plan or other appropriate planning documents, to the extent permitted by law, a provision which ensures that adequate school facilities will be available.

**Notifications to Other Local Agencies**

The Board shall notify the city council or county board of supervisors whenever it finds, based on clear and convincing evidence: (Government Code 65971)

1. That conditions of overcrowding exist in one or more attendance areas within the district which will impair the normal functioning of the educational programs, and the reason for the existence of those conditions
2. That all reasonable methods of mitigating conditions of overcrowding have been evaluated and no feasible method for reducing those conditions exists

The above notice shall specify the mitigation measures considered by the district and shall include a completed application to the Office of Public School Construction for preliminary determination of eligibility for school construction under applicable state law. (Government Code 65971)

**RELATIONS WITH LOCAL AGENCIES** (continued)

The Superintendent or designee shall notify the appropriate city or county planning agency of the adoption of a school facility needs analysis or facilities master plan, the acquisition of a school site, or other action regarding school facilities in accordance with law.

*Legal Reference:*

EDUCATION CODE

*17280-17316 Approval of plans and supervision of construction*

*35275 New school planning; cooperation with recreation and park authorities*

GOVERNMENT CODE

*53090-53097.5 Compliance with city or county regulations*

*65300-65307 Authority for and scope of general plans*

*65352.2 Communication between cities, counties and school districts*

*65850-65863.11 Adoption of regulations*

*65970-65981 School facilities*

*65995-65998 Developer fees*

PUBLIC RESOURCES CODE

*21000-21177 California Environmental Quality Act of 1970*

CODE OF REGULATIONS, TITLE 5

*14010 Procedure for site acquisition*

CODE OF REGULATIONS, TITLE 14

*15000-15285 Implementation of California Environmental Quality Act of 1970*

**ARCHITECTURAL AND ENGINEERING SERVICES**

**Designing**

The Board of Trustees will appoint certified architects and engineers for professional services as required by the building program.

*Legal Reference:*

EDUCATION CODE

*17070.50 Conditions for apportionment*

*17280-17316 Approvals, especially:*

*17302 Persons qualified to prepare plans, specifications and estimates and supervise construction*

*17316 Contract provision re school district property*

*17371 Limitation on liability of governing board*

GOVERNMENT CODE

*4525-4529.5 Contracts with private architects, engineering, land surveying, and construction project management firms*

*14837 Definition of small business*

*87100 Public officials; financial interest*

PUBLIC CONTRACT CODE

*20111 School district contracts*

**ARCHITECTURAL AND ENGINEERING SERVICES**

The Board of Trustees shall engage the services of a licensed architect(s) holding a valid certificate or engineer(s) holding a valid certificate for the preparation of plans, specifications or estimates for any construction project, through a signed contract. (Education Code 17302)

Contractors for any architectural, landscape architectural, engineering, environmental, land surveying or construction project management services shall be selected, at fair and reasonable prices, on the basis of demonstrated competence and professional qualifications necessary for the satisfactory performance of the services required. (Government Code 4526)

The Superintendent or designee shall ensure that the selection process for projects receiving state funding: (Government Code 4526)

1. Ensures that projects entail maximum participation by small business firms as defined pursuant to Government Code 14837
2. Prohibits practices which might result in unlawful activity such as rebates, kickbacks, or other unlawful consideration
3. Prohibits district employees from participating in the selection process when they have a relationship with a person or business entity seeking a contract which would subject the employee to the prohibition of Government Code 87100

The selection process may also include: (Government Code 4527)

1. Detailed evaluations of current statements of prospective contractors' qualifications and performance data
2. Discussion of alternative approaches for furnishing the services with at least three firms
3. Selection of at least three firms deemed to be the most highly qualified to provide the required services, in accordance with established criteria and recommended in order of preference

Contracts shall specify that all plans, specifications and estimates prepared by the contractor shall become the property of the district. (Education Code 17316)

**SITE SELECTION AND DEVELOPMENT**

The Board of Trustees believes that a school site should serve the district's educational needs in accordance with the district's master plan as well as show potential for contributing to other community needs.

The Board recognizes the importance of community input in the site selection process. To this end, the Board will solicit community input whenever a school site is to be selected and shall provide public notice and hold public hearings in accordance with law.

The Superintendent or designee shall establish a site selection process which complies with law and ensures that the best possible sites are acquired and developed in a cost-effective manner.

Before acquiring property for a new school or an addition to an existing school site, the Board shall evaluate the property at a public hearing using state site selection standards. (Education Code 17211)

**Environmental Impact Investigation for the Site Selection Process**

The Superintendent or designee shall determine whether any proposed development project is subject to the requirements of the California Environmental Quality Act (CEQA) and shall ensure compliance with this Act whenever so required. When evaluating district projects, the CEQA guidelines shall be used.

**Agricultural Land**

If the proposed site is in an area designated in a city, county, or city and county general plan for agricultural use and zoned for agricultural production, the Board shall determine all of the following: (Education Code 17215.5)

1. That the district has notified and consulted with the city, county, or city and county within which the prospective site is to be located
2. That the Board has evaluated the final site selection based on all factors affecting the public interest and not limited to selection on the basis of the cost of the land
3. That the district shall attempt to minimize any public health and safety issues resulting from the neighboring agricultural uses that may affect students and employees at the site

**SITE SELECTION AND DEVELOPMENT (continued)**

*Legal Reference:*

EDUCATION CODE

17006 *Definition of self-certifying district*

17024 *Prior written approval of CDE for selection of school site or construction of building*

17070.10-17077.10 *Leroy F. Greene School Facilities Act of 1998*

17210-17224 *General provisions (school sites)*

17240-17245 *New Schools Relief Act*

17250.20-17250.35 *Design-build contracts*

17251-17253 *Powers concerning buildings and building sites*

17260-17268 *Plans*

17280-17317 *Approvals*

17565-17592.5 *Board duties re management and control of school property*

35271 *Power to acquire and construct on adjacent property*

35275 *New school planning and design, re consultation with local recreation and park authorities*

CODE OF CIVIL PROCEDURE

1263.710-1263.770 *Remediation of hazardous substances on property to be acquired by school district*

GOVERNMENT CODE

53094 *Authority to render zoning ordinances inapplicable*

65402 *Acquisition or disposition of property*

65995-65997 *Developer fees*

66455.9 *Written notices of proposed public school site within development; investigation and report; conditions for acquisition*

HEALTH AND SAFETY CODE

44360 *Risk assessment*

PUBLIC RESOURCES CODE

21000-21177 *Implementation of Environmental Quality Act*

CODE OF REGULATIONS, TITLE 5

14001-14036 *Minimum standards*

CODE OF REGULATIONS, TITLE 14

15000-15209 *Review and evaluation of EIRs and negative declarations*

ATTORNEY GENERAL OPINIONS

82 *Ops.Cal.Atty.Gen. 130 (1999)*

**SITE SELECTION AND DEVELOPMENT**

As part of the district's site selection process, the Superintendent or designee shall:

1. Meet with appropriate local government recreation and park authorities to review all possible methods of coordinating the planning, design, and construction of new school facilities and school sites or major additions to existing school facilities and recreation and park facilities in the community. (Education Code 35275)
2. Notify the appropriate local planning agency in writing and request its report and recommendations regarding the proposed site or proposed addition's conformity with the adopted general plan. (Government Code 65402; Public Resources Code 21151.2)
3. Have the site investigated by competent personnel with regard to population trends, transportation, water supply, waste disposal facilities, utilities, traffic hazards, surface drainage conditions, and other factors affecting initial and operating costs. This investigation shall include geological and soil engineering studies to preclude locating the school on terrain that has the potential for earthquake or other geologic hazard damage as specified in Government Code 65302. (Education Code 17212-17212.5)
4. As necessary, request information necessary or useful to assess and determine the safety of a proposed school site, or an addition to an existing school site, from a person, corporation, public utility, locally publicly owned utility, or governmental agency regarding pipelines, electric transmission and distribution lines, railroads, and storage tanks in accordance with law. (Education Code 17212.2, 17251)
5. Ensure that the site meets state standards for school site selection as specified in 5 CCR 14010-14012.
6. Ensure compliance with the California Environmental Quality Act (CEQA) as required by law. (Public Resources Code 21000-21177)
7. If the proposed site is within two miles of the air line of an airport runway or proposed runway, before acquiring title to or leasing the site, notify the California Department of Education in writing. (Education Code 17215)
8. If the proposed site is within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor, conduct an air quality analysis pursuant to Health and Safety Code 44360 and Education Code 17213 and determine that the air quality at the proposed site is such that neither short-term nor long-term exposure poses significant health risks to students. (Education Code 17213)

**SITE SELECTION AND DEVELOPMENT (continued)**

In the selection and development of projects funded pursuant to the School Facilities Program of 1998 (Proposition 1A) as contained in Education Code 17070.10-17077.10, the Superintendent or designee shall:

1. Determine whether the proposed site is free of toxic contamination by ensuring that a Phase I environmental assessment and/or preliminary endangerment assessment is conducted as required by law (Education Code 17213.1)

The Superintendent or designee shall ensure that the preliminary endangerment assessment is made available for public review and comment in accordance with Education Code 17213.1.

2. Annually submit a summary report of expenditures to the State Allocation Board in accordance with law (Education Code 17076.10)
3. Include in the plans a hard-wired connection to a public switched telephone network or utilization of wireless technology (Education Code 17077.10)
4. Establish a participation goal of at least three percent, per year, of the overall dollar amount expended each year by the district for disabled veteran business enterprises (Education Code 17076.11)

**CHARTER SCHOOL FACILITIES**

The Board of Trustees believes that all students, including those attending charter schools, should have access to adequate facilities that are safe and support student learning.

Facilities to be used by a charter school shall be specified in the school's charter pursuant to Education Code 47605 and also may be addressed in a written memorandum of understanding between the district and charter school.

As applicable, charter school facilities shall comply with the California Building Standards Code adopted by the local building enforcement agency pursuant to 24 CCR 101 et seq. or the Field Act pursuant to Education Code 17280-17317 and 17365-17374. (Education Code 47610, 47610.5)

Upon request, the Board shall make facilities available to an eligible charter school operating in the district, as defined in law and administrative regulation. In accordance with law, such facilities shall be contiguous, furnished, equipped, and sufficient to accommodate all the charter school's in-district students in conditions reasonably equivalent to those in which the students would be accommodated if they were attending other district schools. The Board shall make reasonable efforts to provide the charter school with facilities near where the charter school wishes to locate and shall not move the charter school unnecessarily. If the district's preliminary proposal or final notification of space does not accommodate the charter school at a single school site, the Board shall make a specific finding that the charter school could not be accommodated at a single site and shall adopt a written statement of reasons explaining the finding. (Education Code 47614; 5 CCR 11969.1-11969.10)

The district shall not be required to use unrestricted general fund revenues to rent, buy, or lease facilities for charter schools. (Education Code 47614)

*Legal Reference: (see next page)*