

Housing pupils is a primary district responsibility. The purpose of this section is to provide school districts with general information on the basic requirements, planning process, approvals, and personnel necessary to meet educational facility needs. Financing of school facilities, site selection, and construction approval require detailed information, some of which is included in the exhibits at the end of this section. Topics specific to charter schools facilities are discussed in the Charter Schools section.

SCHOOL BUILDING PROGRAM

Implementation of a school building program requires careful coordination of activities so that construction is completed as buildings are needed. A continuous long-range facility planning program is recommended to achieve this coordination. A building program calendar should be established that allows sufficient time for the four main phases of school building programs: (1) planning; (2) funding, i.e., state eligibility, bonds, and other options; (3) site selection and acquisition, including California Department of Education approval; and (4) construction, including specific activities that are required at the completion of a building project. A seven-year timeline is suggested.

The planning, financing, site selection, and construction of school buildings require consideration of complex issues, including projected enrollments, educational program objectives, financial resources, and current legal requirements.

Questions concerning all aspects of facility planning may be directed to Facility Planning Services, San Diego County Office of Education (SDCOE). Information is also available on the Facility Planning Services Web site (see Additional Resources).

PLANNING PHASE

Governmental agencies and local stakeholders should be involved in the analysis and development of a district facilities plan that will ensure that current and future educational and facilities needs are met (see Exhibit 1). The design of facilities must address many dynamic, contemporary issues (see Exhibit 2). SDCOE Facility Planning Services provides suggested planning criteria to districts upon request.

The following are major steps in planning a district school building program:

1. Assist the governing board in selection of a district planning consultant and/or architect following appropriate selection criteria.
2. Work with district architect to complete a site assessment of all sites, identifying conditions of facilities and needs for repair or replacement. Architect should then prepare a cost estimate for the defined projects, develop a financial plan, and identify potential funding sources.

3. Update the district's long-range comprehensive master plan, long-range master plan, and long-range enrollment projections (e.g., five years and 10 years) to identify needs for new construction. Submit master plan to California Department of Education for review.
4. Develop education specifications and priorities in coordination with curriculum groups and describe the scope of each project to be built or modernized.

Long-range Comprehensive Master Plan

A school district's long-range comprehensive master plan is a compilation of district policies, information, inventory, and statistical data that provides a basis for planning educational facilities to meet the changing needs of the community. The master plan becomes the district's policy statement for the allocation of resources during periods of both enrollment growth and decline.

The *Guide for the Development of a School District Long-Range Comprehensive Master Plan* published by the California Department of Education (CDE) recommends five areas to be considered when developing a master plan: (1) educational programs and goals, (2) utilization and condition of educational facilities, (3) comprehensive demographic study, (4) prioritized implementation plan, and (5) evaluation and updating of the plan (see Additional Resources).

When preparation of a master plan is initiated, specific individuals should be designated to provide leadership and be responsible for the plan's development and implementation. A planning committee should be named, with suggested representation including: (1) SDCOE; (2) community leaders; (3) governing board; (4) district superintendent; (5) instructional services; (6) business services; (7) principals; (8) teachers; and (9) classified personnel (see Exhibit 1). [EC § 17017.5; 5 CCR § 14001 et seq.]

The planning committee functions as a management group, with individual responsibilities being specified, and ensures that there is total staff and community involvement in plan development. Assistance with the technical aspects of developing a master plan, such as determining eligibility for state school building aid funds, can be obtained from SDCOE Facility Planning Services, the School Facilities Planning Division (SFPD) of the California Department of Education (CDE), the Office of Public School Construction (OPSC), and architectural and technical consultants (see Additional Resources).

Selection of Professional Consultants

School facility construction requires hiring experts for the preparation of planning documents, development of architectural drawings, management of bond programs and construction processes, and inspection of buildings. Typically, a district will need to contract for a project architect, an approved Division of State Architect project inspector, and a planning consultant. An approved contract information form for use by DSA inspectors is available online (see Additional Resources). (See also Commercial School Orders.)

All contracts for professional consultants must be obtained through a competitive process consistent with the requirements of Government Code section 4525 et seq. and California Code of Regulations, Title 2, section 2980 et seq. SDCOE Facility Planning Services maintains a list of professional consultants and sample contracts for district reference.

FUNDING PHASE

Prior to the passage of Proposition 13 in 1978, most school districts met needs for financing additional school facilities by using local or state bond revenues. Now, districts must select from a variety of options to obtain building funds, taking into consideration the limitations of some alternatives, such as matching requirements. To maximize their options, districts must keep abreast of new laws related to funding of school facilities. Options currently available for facility financing are discussed in this section.

Developer Fees

To assist districts in financing schools, districts may collect developer fees for residential, commercial, and industrial development. Developer fees are intended to help offset the costs of the school construction that new development requires. Fees cannot exceed the cost to provide schools or classroom space. The State Allocation Board sets the fee rates and adjusts the maximum assessment every two years to reflect inflation. [EC § 17620; GC § 65995]

Prior to establishing a new fee or increasing an existing fee, a district must prepare a Fee Justification Study that describes the need for the fee and establishes reasonable relationships between the fee and the type of development to be assessed, between the development project for which the fee is imposed and the type(s) of school facilities to be provided, and between the amount of the fee and the cost of the facilities. [GC § 66001]

Governing boards must satisfy specified notification and public hearing requirements prior to the levying of new or increased developer fees. [EC § 17622; GC §§ 65352.2, 65995.7, 66000-1, 66006-7, 66016]

Three levels of fees are available:

1. **Level 1 Funding:** These fees per square foot of residential, commercial, and industrial construction may be assessed as long as the district's Fee Justification Study justifies the amount. Pursuant to Education Code section 17620, some types of construction may be exempted.
2. **Level 2 Funding:** The district must prepare a School Facility Needs Analysis (SFNA) in accordance with Government Code section 65995.6. Up to 50 percent of the district's need based on an approved SFNA may be assessed on residential construction. Districts can collect this fee only if specified criteria are satisfied. [EC § 17071.10-8.10; GC § 65995.5]
3. **Level 3 Funding:** These fees on residential construction represent the amount identified in the SFNA for the full cost of facility needs. They can be collected only if the district is eligible to collect Level 2 funding and the State Allocation Board has made a determination that state funds are no longer available. [GC § 65995.7]

School districts provide both an annual and a five-year accounting of the collected developer fees. [GC § 66006] Information on developer fees is available on the SDCOE Facility Planning Services Web site (see Additional Resources). The process for establishing developer fees is presented in Exhibit 3.

School Facility Program (SFP)

The School Facility Program, established by the Leroy F. Greene School Facilities Act of 1998, provides funds to eligible districts for modernization of existing buildings or new construction, including site acquisition (see Additional Resources). [EC § 17070.10 et seq.] Funds must be spent on district owned property or property that meets specific lease terms and conditions. [EC § 17307.5]

Districts are required to provide a portion of the cost of a project from funds available to them, such as general obligation bonds and developer fees. Hardship funding is available for districts that cannot provide matching funds and meet specific criteria. SFP funds are distributed via grant allocations on a per-student basis. Amounts are adjusted annually based on a construction cost index approved by the State Allocation Board and accessible on the Department of General Services Web site (see Additional Resources).

SFP new construction grants provide funds for capital facility projects on a 50/50 state and local sharing basis. Eligibility is determined by comparing existing classroom capacity to five-year enrollment projections. [EC § 17072.10] Alternative enrollment projection methods, as well as high school attendance areas, may be taken into consideration when determining eligibility. Grant funds are for the State's share of necessary project costs including, but not limited to, funding for design, construction of the building, general site development, educational technology, unconventional energy, tests, inspections, and furniture/equipment. Funds for site acquisition and site preparation and for a variety of special project needs are also available as supplemental grants.

Modernization grants provide funds on a 60/40 state and local sharing basis. Permanent buildings must be over 25 years old to qualify for consideration, and relocatable buildings must be over 20 years old, based on the most recent DSA approval date plus 12 months. [EC § 17073.15] Funds must be used for an improvement to extend the useful life of, or to enhance the physical environment of, the school. Projects eligible under this program include, but are not limited to, air conditioning and insulation; electrical systems; improvements to school security and fire and playground safety; and furniture and equipment. Costs of design, engineering, plan checking, testing, and inspections are also eligible. Costs associated with acquisition and development of real estate, routine maintenance and repair, administrative costs, and overhead are generally excluded. [EC §§ 17074.10(d), 17074.25]

Accessing funds under the SFP requires that an eligibility application is filed with the State Allocations Board (SAB) either prior to or concurrently with an application for project funding. Separate applications for new construction and modernization grants are required to be filed with the OPSC for approval by the SAB. The California Department of Education approval process for the School Facilities Funding Program is presented in Exhibit 4.

With certain exceptions related to portable buildings, new construction projects under the Greene Act of 1998, as well as modernization projects in excess of \$200,000, must comply with automatic fire detection and alarm system provisions. Districts must include the cost of these systems in requests for funding. [EC §§ 17074.50-4.52]

The OPSC requires that all work included in the project be approved by both the California Department of Education and the Division of the State Architect prior to submitting an application for funds.

Prior to approval of a project, school districts must establish a Routine Restricted Maintenance Account (RRMA) and must certify that they have publicly approved an ongoing and major maintenance plan. [EC § 17070.75] Major maintenance is defined

as all actions necessary to keep items such as roofing, siding, painting, floor and window coverings, and other items designated by the governing board of the school district in good repair. [EC §17070.77]

The OPSC offers an online School Facilities Program calculator to assist districts with the financial planning of typical new construction and modernization projects. Estimated grant amounts based on project specifications and current SFP regulations are also available (see Additional Resources).

Meetings can be scheduled with OPSC staff for the purpose of discussing funding eligibility and approval procedures. *An Overview of the State School Facility Programs*, the *SFP Handbook*, and SFP application forms are available on the OPSC Web site (see Additional Resources).

Mello-Roos Community Facilities Act of 1982

An election may be held to create a Community Facilities District (CFD) to sell tax-exempt bonds to finance public facilities and services, including needed elementary schools and other capital improvements with a life expectancy of five years or more. Establishment of a CFD must be approved by two-thirds of the voters in the district. Property owners in Mello-Roos districts are taxed to repay the bonds.

The SAB may share in all or any part of the cost of any school facilities financed by a Mello-Roos district. Costs could be reimbursed up to 75 percent of allowable amounts or the amount outstanding on Mello-Roos bonds, whichever is less. [GC §§ 53311 et seq., 53313.9]

California School Finance Authority

The California School Finance Authority oversees the statewide system for the sale of revenue bonds for the acquisition of new school sites and buildings and the reconstruction, remodeling, and replacement of existing facilities. The Finance Authority also assists school districts, community college districts, county offices, and charter schools by providing access to financing for working capital and capital improvements (see Additional Resources).

Sale or Lease of Surplus Real Property

The conditions and procedures for the sale or lease of real property belonging to a school district are specified in the Education Code. [EC §§ 17390, 17455 et seq., 81360 et seq.] If the governing board decides to sell or lease real property owned by the school district, it must first determine that the property is no longer needed for

school purposes. Before taking action to sell or lease the property, the governing board should confer with legal counsel regarding procedures to be followed pertaining to board resolutions, posted notices, and legally required advertising.

The district should maintain the following documents on file at the district office:

1. The board resolution declaring intention to sell or lease
2. Affidavits of posting and publication of the resolution
3. The board resolution accepting the bid
4. The lease or rental agreement, unless the rental was provided for in the escrow instructions

Education Code section 17462 presents requirements for use of proceeds from the sale or lease of surplus real property. Proceeds from a lease of school district property may be used for the routine repair of district facilities for up to a five-year period. Under specified conditions, proceeds from the sale or lease of real property may be used for capital outlay; for maintenance and renovation purposes; or for one-time expenditures from the General Fund. Use of these funds is subject to SAB regulations (see Additional Resources). [2 CCR § 1700] Under some circumstances, a lock-out period for filing applications for new construction or modernization funding is applicable. (See also Accounting and Inventory.)

Tax Increment Financing (Redevelopment Agencies)

School districts shall be included in tax increment distributions of a redevelopment agency upon approval of the redevelopment plan. [H&SC §§ 33670, 33676]

Districts should be knowledgeable about the redevelopment agencies within their district boundaries. Local redevelopment agencies, sometimes referred to as community development departments, should be asked to verify with their respective districts the amount of tax increment revenues collected so that school or community college districts can confirm that they have received appropriate allocations, if any.

Special Taxes

Subject to approval by a two-thirds vote in the affected district, school districts are authorized to impose special taxes, such as a parcel tax, for the purpose of funding facility construction and related expenses. [CalC Art. XIII A; GC § 50075] (See also Elections and Reorganization.)

Certificates of Participation (COPs)

Certificates of Participation (COPs) are a type of tax-exempt financing for the acquisition of capital equipment or construction of facilities by a public agency. The agency enters into a lease agreement with a joint powers authority, bank, or other entity. The lessor raises funds through the sale of COPs to investors, which provides funds to pay for the purchase of the asset. The public agency, as the lessee, makes periodic payments on the purchase price of the facilities or equipment plus interest. The interest received by the lessor is generally tax exempt. [EC § 17402 et seq.]

Tax and Revenue Anticipation Note (TRAN)

Tax and revenue anticipation notes are a means of short-term borrowing issued in anticipation of the receipt of taxes and other revenue during the same fiscal year. TRANs are used by public agencies to meet current cash flow needs due to timing of revenue. The amount of a TRAN issue is a function of beginning balances, level of unrestricted funds, and size of cumulative deficit incurred. [GC § 53850 et seq.]

Benefit Assessment District

Subject to a two-thirds vote of affected property owners, a district can collect money through an assessment levied on properties benefiting from proposed construction.

Year-Round Education

Year-round education grants are allocated to school districts that are implementing, or planning to implement, Multitrack Year-Round Education (MTYRE) programs at individual school sites in order to increase the capacity of their facilities. To qualify, school districts must have substantial district level overcrowding, which is defined as five percent over school district capacity. [EC § 42260-9]

Information on MTYRE programs and funding is available on the California Department of Education Web site (see Additional Resources).

Voter-Approved General Obligation Bonds

There are two methods for passing a general obligation bond. The first method requires the approval of two-thirds of the voters voting on the proposition to issue a bond. Use of bond funds is limited to acquisition or improvement of real property. A second method, which was authorized by Proposition 39, requires a 55 percent affirmative vote. This alternative allows the use of funds for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property. The governing board is required to

conduct annual, independent performance and financial audits and to establish a citizens' oversight committee. General obligation bonds passed under Proposition 39 are also subject to specific procedural and funding limitations. [CalC, Art. XIII, XIII A; EC §§ 15100 et seq., 15264 et seq.; GC § 53506 et seq.] (See also Elections and Reorganization.)

School Facility Improvement District General Obligation Bonds

School and community college districts may form school facilities improvement districts (SFIDs) consisting of a portion of the territory within the district. An SFID may issue general obligation bonds for school facilities construction purposes upon a two-thirds affirmative vote. Bonds of an SFID may also be authorized by 55 percent of the votes cast on the proposition, subject to specified accountability provisions. [EC § 15264 et seq., 15300 et seq.]

Special Reserve Fund Monies

School districts may budget General Fund monies for facility purposes if such monies are available. A Special Reserve Fund-Capital Projects may be established by a district for the express purpose of setting aside funds for facility construction.

Qualified Zone Academy Bonds (QZAB)

The SFPD facilitates the Qualified Zone Academy Bonds program, a loan (bond) program that utilizes a provision of the Internal Revenue Code to assist school districts in renovating public school facilities, purchasing equipment, developing curriculum, and training personnel. In partnership with local businesses, qualified local educational agencies must establish Education Zone Academies that offer programs designed to increase graduation rates and prepare students for college and the workforce. The private business partner must contribute equipment, time, and/or services valued at not less than 10 percent of the bond proceeds. The cost of interest on a QZAB bond is eliminated, but the bond principal must be repaid within a specified time. Forms and information are available online from the California Department of Education (see Additional Resources).

Non-Voter-Approved Debt

The school district shall predisclose issuance of new non-voter-approved public debt, such as certificates of participation or revenue bonds, and any agreement under the California School Finance Authority Act to the county auditor, the county superintendent of schools, the governing board, and the public. A Certification of Superintendent Regarding Public Disclosure of Non-Voter-Approved Debt, or Certification of Superintendent Regarding Public Disclosure of Agreement under California School

Finance Authority Act (Exhibit 5) may be used to transmit the debt obligation repayment schedule, projection of revenues and expenditures, and other information demonstrating the district's ability to repay the debt obligation to the county superintendent of schools and the county auditor. This information should be disclosed at an open meeting of the governing board. The county superintendent and county auditor may comment publicly to the governing board about the capability of the school district to repay the debt obligation. [EC §§ 17150 et seq., 17170 et seq.] Additional information is available in the Financial Accountability section.

SITE SELECTION AND ACQUISITION PHASE

Selection and Approval of School Sites

Districts must follow established standards and procedures for school site selection and approval (see Exhibit 6). [EC § 17251 et seq.; 5 CCR §§ 14001-36] These requirements are discussed in the CDE publication, *School Site Selection and Approval Guide* (see Additional Resources).

Time must be allotted for the research necessary for site selection and for the preparation and processing of applications through the multiple agencies required to give comment and approval. Districts should develop a timeline identifying specific milestones in the site selection and approval process (see Exhibit 7).

The SFPD has the authority to review and approve school sites and plans for new schools. The CDE acts in an advisory capacity at the district's request but may charge a fee for this service.

The purpose of the CDE approval process is to ensure the selection of sites that promote the health, safety, and welfare of students. In selecting school sites, districts should make certain that current SFPD requirements are met. Public schools must be sited in areas that are clean and free of all toxic contaminants and the influence of high voltage electrical lines and high pressure gas lines; outside airport and heliport flight paths and environmentally, geologically, or geographically sensitive areas; and compatible with other land use. The CDE interfaces directly with other governmental agencies, such as the Department of Toxic Substances Control and the Caltrans Aeronautics Program, in the review of required environmental reports (see Additional Resources). [EC § 17215]

Site selection also requires input from the planning commission of the local jurisdiction and written findings from the regional air quality control district.

If no agreement can be reached with the property owner for purchase of a proposed school site, districts should seek the advice of legal counsel regarding possible condemnation proceedings. [EC § 22378; GC § 7260] (See also Commercial School Orders.)

Districts are encouraged to enlist the assistance of their architects, consultants, SDCOE, and CDE in the completion of forms required by the SFPD. The forms listed below can be downloaded from the SFPD Web site (see Additional Resources).

1. SFPD 4.0: Initial School Site Evaluation—Completed by a CDE consultant
2. SFPD 4.01: School Site Approval Procedures—Completed by the district and submitted to the CDE
3. SFPD 4.02: School Site Report—Completed by the district and submitted to CDE
4. SFPD 4.03: School Site Certification—Completed by the district and submitted to CDE [5 CCR §§ 14001-36]

Once the site approval package is completed and submitted to the CDE, a decision will be rendered in approximately 60 days.

Environmental Studies

Environmental studies of a proposed school site include a Phase I Environmental Site Assessment, possibly a Preliminary Endangerment Assessment, and an environmental impact study as required by the California Environmental Quality Act. SFPD form 4.01 presents requirements for the environmental studies needed for school site approval. Information on the DTSC review process is available on the CDE Web site (see Additional Resources).

Phase I Environmental Site Assessment (ESA)

Prior to acquiring a school site, the governing board must contract with a qualified environmental assessor to conduct a Phase I Environmental Site Assessment of the proposed site, unless the governing board decides to proceed directly to a Preliminary Endangerment Assessment. A Phase I ESA is an investigation into current and historic uses of a property to determine whether there has been or may have been a release of a hazardous material, or whether a naturally occurring hazardous material is present, based on reasonably available information about the property and the area in its vicinity.

The Phase I ESA will result in one of two recommendations: (1) a further investigation of the proposed school site is not required or (2) a Preliminary Endangerment Assessment is needed. [EC §§ 17210, 17213.1]

Preliminary Endangerment Assessment (PEA)

A PEA consists of sampling and testing for hazardous materials and a risk assessment to determine whether a hazardous material release or one that is naturally occurring poses a significant health risk. If a PEA is recommended or if the Department of Toxic Substances Control (DTSC) concludes, based on its review of the Phase I ESA, that a PEA is needed, districts have two options for conducting the review. One option (Option A) does not require a link with the project's CEQA documents. The second option (Option B) provides for a PEA review that is linked with the project's CEQA document review (see Additional Resources). Districts are required to use a format prepared by the DTSC and to provide proof of the environmental assessor's qualifications. [EC § 17213.1]

The PEA will result in one of two determinations: (1) no further action is required or (2) the PEA is disapproved. If the PEA is disapproved, the district will be informed of the actions necessary to secure approval of the DTSC and may decide whether to proceed with the project.

California Environmental Quality Act (CEQA)

The California Environmental Quality Act is in Public Resources Code, section 21000 et seq. (see Additional Resources). All public agencies undertaking a project or involved in the review of a project are required to prepare an assessment of the significant effects the project may have on the environment. [EC § 17213] A project is defined as an activity that may cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment. [PRC § 21065] CEQA guidelines and related resources are available online (see Additional Resources).

CONSTRUCTION PHASE

The following are major steps in the construction phase:

1. Interpret educational specifications, as needed, for the architect.
2. Prepare plans and technical specifications.
3. Check all plans for compliance with district policy and legal requirements.

4. Obtain necessary approvals from administration, governing board, and county and state agencies for both preliminary and final plans.
5. Carefully select an appropriate procurement process for construction.
6. Work with the architect, inspector, and contractor during construction.
7. Take actions necessary to complete the project.

Construction Plan Approvals

A district representative should coordinate the work of the planning team and the architect in the development of final drawings. Final drawings must be submitted to the Department of General Services, Division of the State Architect, to be checked and approved. Districts have the option of not filing a DSA plan check application if the proposed project is less than \$121,628 and a licensed structural engineer certifies that the structure meets requirements of the California Building Standards Code, i.e., Title 24, California Code of Regulations (see Additional Resources). A copy of the engineer's report must be filed with the DSA. [EC § 17295; 21 CCR §§ 6, 17]

A commercial warrant in payment of required fees should be sent with the drawings to the DSA. Complete sets of plans with approvals of the governing board, the CDE, and the Department of General Services must be filed with each of the approving agencies. [EC §§ 17024, 17295, 17297, 81133]

The architect is typically eligible for payment for the final plans when a complete set of plans has been approved by the DSA. When processing payment, an excerpt of governing board acceptance of the final plans must be filed with the SDCOE Commercial Warrants Audit Unit. (See also Commercial Schools Orders.)

Field Act Requirements

A building or relocatable structure that is to be used for school purposes must meet the safety provisions set forth in California Code of Regulations, Title 24, and Education Code sections 17280 et seq., 17365 et seq., and 81130 et seq., known as the Field Act. The Field Act generally provides for the construction of California public school buildings under strict design standards in order to protect students, staff, and school buildings in the event of an earthquake.

Trailer coaches are not subject to the Field Act under specified conditions. A building or facility used by a school district under a lease or lease-purchase agreement into which neither pupils nor teachers are required to enter shall not be subject to the Field Act if the district takes precautions required by the DSA, including the installation of signage

and fencing and appropriate action by the governing board (see Additional Resources). [EC § 17405; 24 CCR, Part 1 § 4-310] Non-Field Act structures may be leased for use by districts if a structural engineer reports to DSA that the building meets specific structural criteria. [EC § 17285]

Americans with Disabilities Act of 1990

The Americans with Disabilities Act of 1990 (ADA) prohibits discrimination on the basis of disabilities in all programs, services, and activities of a public agency (see Additional Resources). All school districts and county offices of education must make facilities “readily accessible to and usable by those with disabilities.” [PL 101-336, Title II] Facilities are defined as all or any portion of buildings, structures, sites, complexes, roads, walks, passageways, parking lots, equipment and rolling stock or other conveyances. The Act mandates that districts prepare an assessment of existing facilities and programs, including transportation and personnel, for compliance with ADA. Districts are also required to have a transition plan for required improvements and to make regular progress toward fulfilling the needs identified in the plan.

Standards governing public building access by disabled persons must be consistent with the provisions of the California Building Standards Commission model codes (see Additional Resources). In support of the objective of having California’s public buildings meet or exceed the minimum requirements of the federal ADA, this law also reauthorized expenditures from the Disability Access Account. [GC §§ 4450, 4454]

Building Energy Efficiency Standards

School projects for new construction submitted to the DSA, including new buildings, additions, and alterations, must comply with the energy requirements of the California Energy Security and Reliability Act of 2000 (see Additional Resources). [24 CCR § 101 et seq.] (See also Maintenance and Operations.)

Storm Water Permit Requirement

As authorized by the Clean Water Act, the National Pollutant Discharge Elimination System (NPDES) permit program controls water pollution by regulating point sources that discharge pollutants into local waters. [33 USC § 1251 et seq.] School districts must obtain storm water permits under specified conditions as follows:

1. The Storm Water Industrial Permit is required of any school district that operates a transportation facility where buses are maintained. Maintenance includes the on-site washing and/or fueling of buses. Districts must file a Notice of Intent to comply

with permit regulations, which include preparing and implementing a Storm Water Pollution Prevention Plan and testing and monitoring the storm water leaving the site.

2. The Storm Water Municipal Permit requires all school districts to comply with regulations of the NPDES permit program. Schools fall under Phase II of the Small Municipal Separate Storm Sewer System General Permit. The permit requires districts to develop and implement a Storm Water Management Plan with the goal of reducing the discharge of pollutants to the maximum extent practicable, as specified in the Clean Water Act. This permit, which includes requirements for education and outreach to district staff and students, applies to all developed sites owned by a district.
3. The Storm Water Construction permit is required if a construction activity disturbs land equal to or greater than one acre, or less than one acre if the land is part of a larger plan of development. Construction activities that essentially maintain existing facilities and do not involve a change in the slope of the land are not required to be covered under the permit. The permit requires districts to prepare and implement a project-specific Storm Water Pollution Prevention Plan and to monitor the effectiveness of the plan.

The San Diego County Office of Education has a Joint Powers Authority to provide districts with economies of scale in complying with the Storm Water Industrial Permit and the Storm Water Municipal Permit (see Additional Resources).

Construction Contracts

Legal requirements for contracting for the construction of school facilities are specified in the Education Code and the Public Contract Code. Sample construction contract documents for traditionally bid projects are available online from SDCOE Facility Planning Services (see Additional Resources). Districts may adapt the documents to suit their individual project needs, but modifications should be reviewed by legal counsel prior to advertising for bids. It is recommended that districts with an extensive construction program develop a contract template that incorporates district-specific requirements.

In general, bid specifications are prepared by the district architect. Advertisements for bid and bid documents must incorporate the district's Disabled Veterans' Business Enterprise (DVBE) goals. Depending on the funding source, other conditions may apply, such as meeting certified Labor Compliance Program requirements.

The governing board shall award the construction contract to the lowest responsive, responsible bidder. Consult the Commercial School Warrants and Purchasing sections for information on competitive bidding procedures and payments on construction contracts. [EC §§ 16503, 17005, 17076.11; GC § 14835 et seq.; LC § 1771.5-1.7; PCC §§ 20111 et seq., 20651 et seq.]

Delivery Methods

Various project delivery methods are allowed under the Education Code. Four methods that are commonly used are: traditional design-bid-build; lease-lease back; construction management; and design-build. [EC §§ 17250.10 et seq., 17406]

Factors to consider when determining the most appropriate project delivery method are time, quality, cost, risk, and owner's expertise. Districts should discuss this decision with their architects and legal counsel early in the planning phase.

Prequalification of Bidders

Section 20111.5 of the Public Contract Code permits districts to prequalify contractors before allowing them to bid. The decision to prequalify contractors should be made well in advance of anticipated bids. Forms and information are available online from SDCOE Facility Planning Services (see Additional Resources).

Relocatable Structures (Portables)

The placement of relocatable or portable structures on school sites requires a project architect or structural engineer and building inspector. Site plans must be approved by the Division of the State Architect. [EC § 17280 et seq.] Approval is usually expedited for districts that choose to use buildings with pre-approvals from DSA. Many types of relocatable structures have received this approval.

Owned or leased relocatable structures used for classrooms must meet Field Act requirements. If neither pupils nor teachers are required to enter the structure, it is not subject to the Field Act as long as appropriate measures are taken (see "Field Act Requirements" on page 13.)

Portable classrooms may be leased from vendors as an interim measure to meet emergency needs, or districts may consider leasing unused classroom space from adjacent districts. The decision to obtain relocatables should include a review of the long-term impact on the district's eligibility for future state funding as well as the long-term life cycle costs. The State Emergency Portable Classroom Program was discontinued as of 2006.

Modular School Construction

Modular facilities consist of multiple factory-built components, such as a separate wall and floor system that are transported to a school site and installed on a permanent foundation. Districts wishing to construct modular school facilities should be aware that the OPSC will not fund any “piggybacked” contracts. The Attorney General opined that the exception to competitive bidding authorized in Public Contracts Code section 20118 does not apply to the acquisition and installation of modular facilities (see Additional Resources). [Ops.Cal.Atty.Gen. No. 05-405] This opinion does not affect portable or relocatable classrooms as defined by Education Code section 17070.15(j). (See also Commercial School Orders.)

Project Completion

The following actions are required upon completion of a building project.

1. Request action of governing board to accept the construction project.
2. File notice of completion with the County Clerk.
3. Obtain Certification of Compliance from the Division of the State Architect (DSA). [EC § 17315]
4. If state funding is used, file final expenditure report with the Office of Public School Construction (OPSC).
5. Collect operation and maintenance manuals, warranties, and as-built record documents.

WILLIAMS SETTLEMENT REQUIREMENTS

The intent of the Williams Settlement [Super. Ct., San Francisco, No. CGC-00-312236] as it relates to school facilities is to ensure that all students have equal access to facilities that are clean, safe, and maintained in good repair. State law established requirements for all school facilities, with additional requirements and available funding for schools in Deciles 1 to 3, inclusive, of the 2003 base Academic Performance Index (API) and commencing 2007-08, provided for an updated list of schools every three years thereafter. [EC §§ 1240(a)(2), 17592.70] A one-time School Facilities Needs Assessment was completed on January 1, 2006.

Facilities-related requirements for all schools under the Williams settlement are:

1. Inclusion on the School Accountability Report Card of data related to the safety, cleanliness, and adequacy of school facilities, including any needed maintenance to ensure good repair of facilities. [EC §§ 17002(d), 17070.75, 17089, 33126(b)(9)]
2. Implementation of a School Facilities Inspection System for all schools participating in the state Deferred Maintenance and School Facilities Programs. [EC § 17070.75]
3. Modification of Uniform Complaint Procedures to include complaints regarding emergency or urgent facilities conditions that pose a threat to the health and safety of students and staff, and the posting of notices in every classroom notifying parents/guardians, students, and teachers of their right to file these complaints. [EC §§ 17002(d), 17592.72(c)(1), 35186; 5 CCR § 4600 et seq.]

Additional requirements and funding for schools in Deciles 1 to 3 of the 2006 base API are as follows:

1. County office of education school visits during the first four weeks of each school year to identify any conditions of the facilities that pose an emergency or urgent threat to the health or safety of pupils or staff; to evaluate the safety, cleanliness, and adequacy of school facilities; and to determine the accuracy of the data reported in the School Accountability Report Card. [EC §§ 1240, 41020(i)(2)]
2. Funding is available via the School Facility Emergency Repair Program administered by the Office of Public School Construction for qualifying schools built before January 1, 2000. Emergency repairs are defined as structures or systems that are in a condition that poses a threat to the health and safety of pupils or staff while at school. [EC §§ 17592.71-2.72] Districts that receive Emergency Repair Funding must fully fund their deferred maintenance contribution annually.

Additional information on the Williams Settlement is available online (see Additional Resources).

DEFERRED MAINTENANCE

The governing board of a school district may establish a Deferred Maintenance Fund for specified major repair and replacement purposes. Use of the funds is controlled by the governing board. The governing board shall discuss proposals and plans for expenditure of funds for the deferred maintenance of school district facilities at a regularly scheduled public hearing. [EC § 17582 et seq.]

The State School Deferred Maintenance Program (DMP) provides matching funds to assist school districts with expenditures for major repair or replacement of existing school building components, including, but not limited to, plumbing, heating, air

conditioning, electrical systems, roofing, painting and flooring. [EC § 17584 et seq.] Funds are also available for critical hardship projects that must be completed within one year due to health and safety reasons. Apportionments made by the State Allocation Board are based on calculations specified in Education Code section 17584(b).

To be eligible for DMP matching funds, districts must develop and submit a five-year plan for the deferred maintenance needs of the district. The request for the apportionment must include a letter from the district superintendent. Funding is subject to approval of the plan, availability of state funds, and certification by the county superintendent of schools that the required matching district funds have been deposited in the district's Deferred Maintenance Fund. The required reserve in the Deferred Maintenance Fund and the calculation of the district's contribution are specified in Education Code section 17070.75. The five-year plan should be updated regularly to ensure that qualified projects are included as projects and priorities change.

Information and the *Deferred Maintenance Program Handbook* are available on the OPSC Web site (see Additional Resources).

ADDITIONAL RESOURCES

1. Americans with Disabilities Act, U.S. Department of Justice, for *ADA Standards for Accessible Design*, *ADA Best Practices Tool Kit for State and Local Governments*, and other ADA publications and resources.
Available: <<http://www.usdoj.gov/crt/ada/adahom1.htm>>
2. Building Energy Efficiency Standards 2005, California Energy Commission.
Available: <<http://www.energy.ca.gov/title24/2005standards/archive/index.html>>
3. Building Standards Commission for model code information. Available:
<http://www.bsc.ca.gov/proc_rsltn/pr_proc_mca.html>
4. California Attorney General, Opinion No. 05-405. Available:
<<http://ag.ca.gov/opinions/pdfs/05-405.pdf>>
5. California Building Standards Code (California Code of Regulations, Title 24).
Available: <http://www.bsc.ca.gov/title_24.html>
6. California Department of Education:

AB 972 "Option B" Linked PEA/CEQA Process. Available:
<<http://www.cde.ca.gov/ls/fa/sf/documents/ab972opb.pdf>>

CDE Site Approval—DTSC Review Process. Available:
<<http://www.cde.ca.gov/ls/fa/sf/documents/siteapp.pdf>>

Facilities for links to master planning, Multitrack Year-Round Education, Qualified Zone Academy Bonds, and charter schools facility funding. Available:
<<http://www.cde.ca.gov/ls/fa/>>

School Facility for forms; legislation; plan review process; resources; and publications to be downloaded or ordered, including *Guide for the Development of a School District Long-Range Comprehensive Master Plan*, 1986, and *School Site Selection and Approval Guide*, 2000. Available: <<http://www.cde.ca.gov/ls/fa/sf/>>

7. California Department of General Services for California Construction Cost Index. Available: <<http://www.dgs.ca.gov/Publications/default.htm>>
8. California Department of General Services, Division of the State Architect, for links to accessibility compliance and publications, Building Code, project tracking, and DSA announcements. Available: <<http://www.dsa.dgs.ca.gov/default.htm>>

Forms, including Form DSA-102, Contract Information. Available:
<<http://www.dsa.dgs.ca.gov/Forms/default.htm>>

Project Submittal and Plan Review for forms and publications. Available:
<<http://www.dsa.dgs.ca.gov/PlanRev/default.htm>>

9. California Environmental Resources Evaluation System:

California Environmental Quality Act (CEQA) for statutes, guidelines, case law, references, and supplemental materials. Available: <<http://ceres.ca.gov/ceqa/>>

California Environmental Quality Act Technical Advice Series, for *Guide to Planning in California*, Governor's Office of Planning and Research, 1997, and other CEQA publications. Available:
<http://ceres.ca.gov/topic/env_law/ceqa/more/tas/>

10. California School Finance Authority for information on school financing programs. Available: <<http://www.treasurer.ca.gov/csfa>>
11. Facility Planning Services, San Diego County Office of Education, for information on CEQA, storm water permits, construction contract documents, developer fees, prequalification of contractors, and other facility-related topics. Available:
<<http://www.sdcoe.net/business/facilities/>>

12. *The Field Act and Public School Construction: A 2007 Perspective*, California Seismic Safety Commission, February 2007. Available:
<http://www.seismic.ca.gov/pub/CSSC_2007-03_Field_Act_Report.pdf>
13. Indoor Air Quality (IAQ) Design Tools for Schools, U.S. Environmental Protection Agency. Available: <<http://www.epa.gov/iaq/schooldesign/>>
14. National Clearinghouse for Educational Facilities for resources on designing safe and secure schools. Available:
<http://www.edfacilities.org/rl/safety_security.cfm>
15. Office of Public School Construction, California Department of General Services (see also Williams Settlement):

Deferred Maintenance Handbook, May 2008; *School Facility Program Handbook*, May 2008; *An Overview of the State School Facility Programs*, May 2008; and other publications that can be downloaded. Available:
<<http://www.opsc.dgs.ca.gov/Publications/default.htm>>

School Facility Program for information on funding assistance programs for new construction and modernization projects, including applications and grant calculator. Available:
<<http://www.opsc.dgs.ca.gov/Programs/SFPPrograms/SFP.htm>>

16. State Allocation Board:

Approved and proposed regulations. Available:
<<http://www.opsc.dgs.ca.gov/Regulations/default.htm>>

State School Facility Programs and State Allocation Board Programs. Available:
<<http://www.opsc.dgs.ca.gov/Programs/default.htm>>

School Facility Program Substantial Progress and Expenditure Audit Guide, September 2007. Available:
<http://www.documents.dgs.ca.gov/opsc/Publications/Handbooks/SFP_Audt.pdf>

17. Storm Water Program, State Water Resources Control Board. Available:
<http://www.waterboards.ca.gov/water_issues/programs/stormwater/>
18. U.S. Department of Energy, Building Technologies Program, for information on planning, financing, and constructing energy-smart school buildings. Available:
<<http://www.eere.energy.gov/buildings/energysmartschools/>>

19. Williams Settlement:

California Department of Education for current information and sample forms. Available: <<http://www.cde.ca.gov/eo/ce/wc/index.asp>>

Emergency Repair Program, Office of Public School Construction. Available: <<http://www.opsc.dgs.ca.gov/Programs/SABPrograms/ERP.htm>>

Good Repair Standards, including link to Facility Inspection Tool (FIT), Office of Public School Construction. Available: <<http://www.opsc.dgs.ca.gov/Programs/SABPrograms/GRS.htm>>

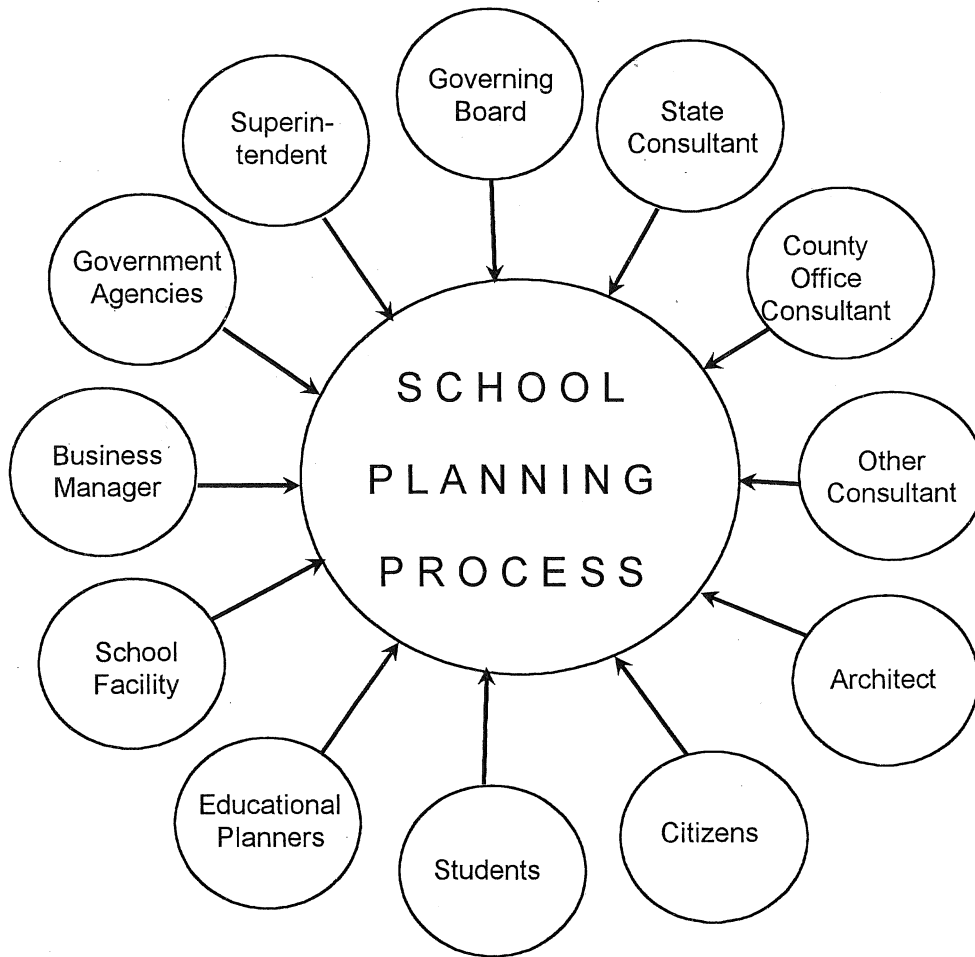
San Diego County Office of Education for *Implementation Guide for the Williams Settlement Legislation*, presentations, and sample forms. Available: <<http://www.sdcoe.net/williams/>>

School Facilities Needs Assessment Grant Program, Office of Public School Construction. Available: <<http://www.opsc.dgs.ca.gov/Programs/SABPrograms/SFNAGP.htm>>

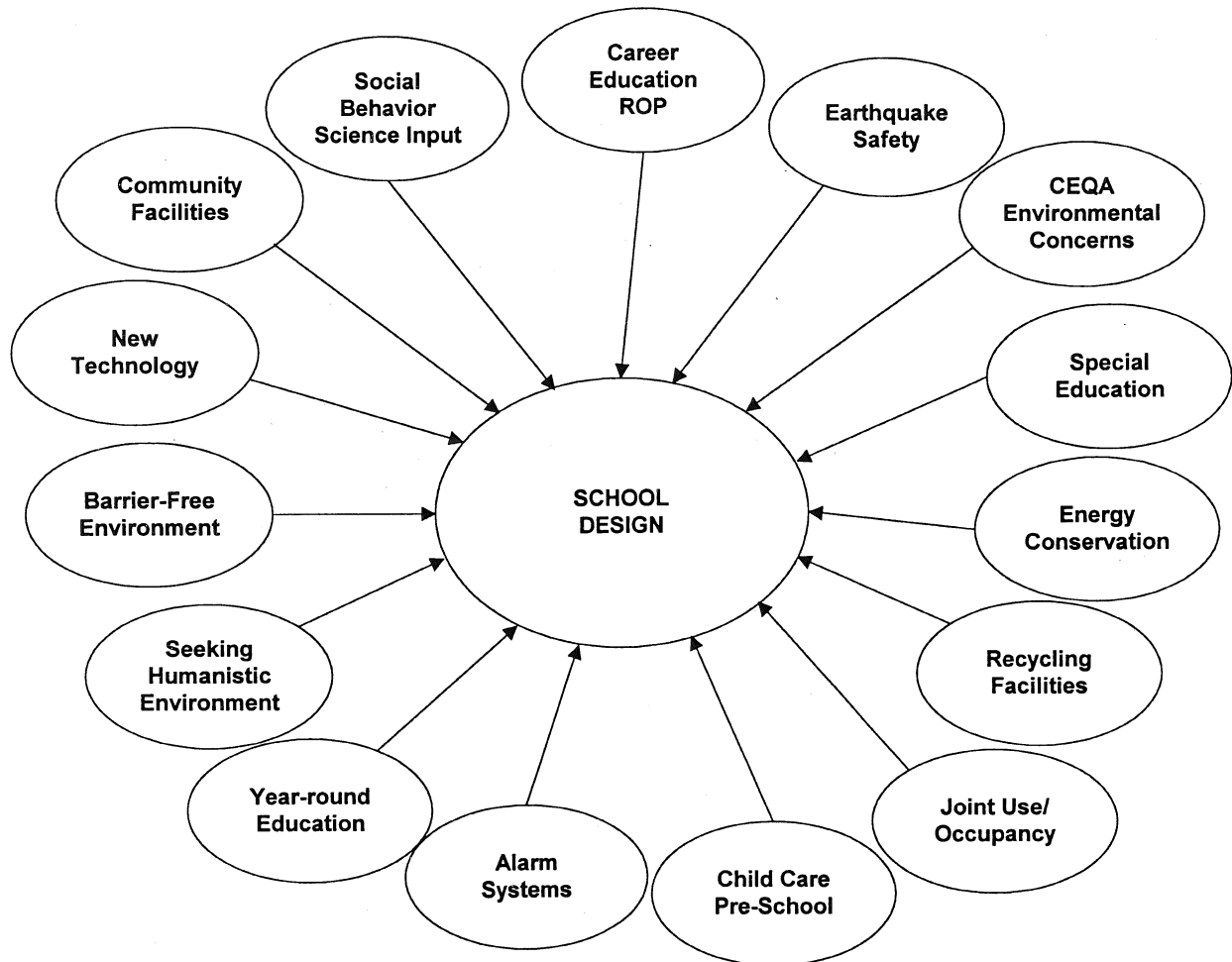
LIST OF EXHIBITS

- Exhibit 1 Facilities Planning Team, San Diego County Office of Education (SDCOE)
- Exhibit 2 Factors Affecting School Design, SDCOE
- Exhibit 3 Residential Developer Fee Process, SDCOE
- Exhibit 4 California Department of Education Approval Process for the School Facilities Funding Program, SDCOE
- Exhibit 5 Non-Voter-Approved Debt, Instructions and Sample Forms, SDCOE
- Exhibit 6 Requirements for California Department of Education Project Approval, SDCOE
- Exhibit 7 Process for School Construction Projects, SDCOE

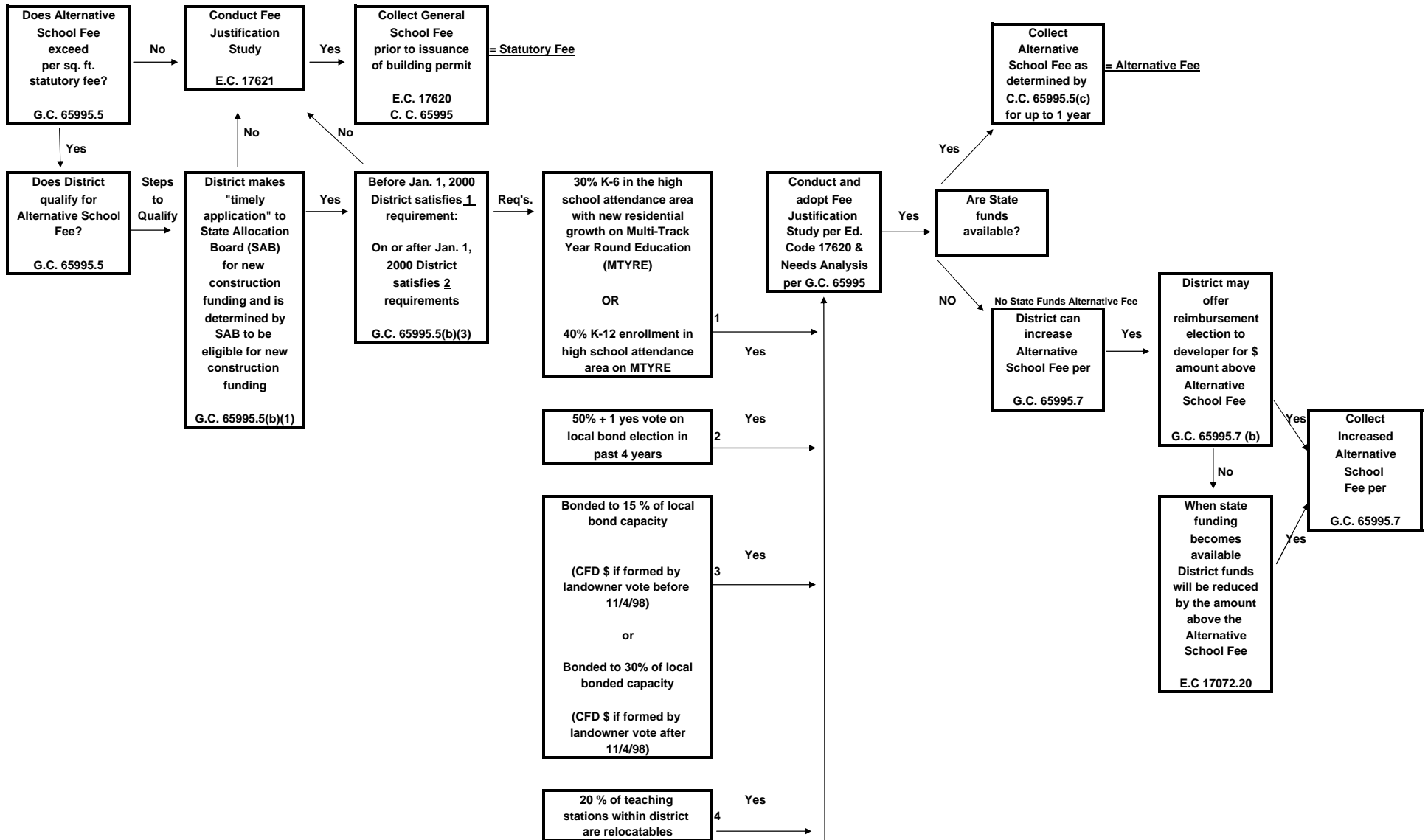
Facilities Planning Team



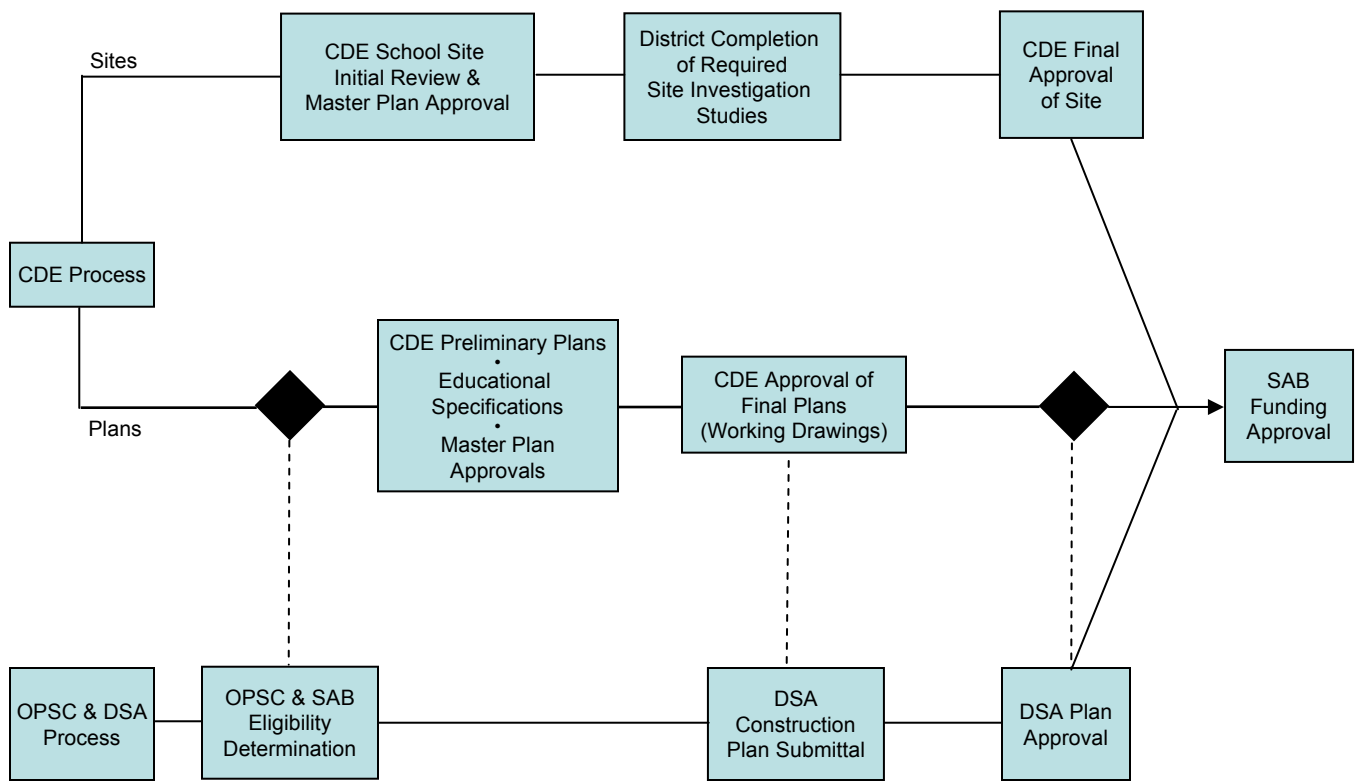
Factors Affecting School Design



Residential Developer Fee Process



California Department of Education Approval Process for the School Facilities Funding Program



**Certification of Superintendent Regarding
Public Disclosure of Non-Voter-Approved Debt or
Execution of Agreement under California School Finance Authority Act**

GENERAL INSTRUCTIONS

Education Code section 17150 requires school districts to provide certain information to the County Auditor and Controller, County Superintendent of Schools, the Governing Board, and the public.

San Diego County Counsel advised in January 1995 that certificates of participation (COPs) including tax and revenue anticipation notes (TRANS) issued jointly by several school districts in the form of certificates of participation would be subject to the disclosure requirements of Education Code section 17150. The major type of revenue bonds intended to be disclosed is public lease revenue bonds issued by a joint powers agency or a nonprofit corporation on behalf of a public entity in order to finance capital improvements to be leased to the public entity. Disclosure is applicable to assessment bonds issued under various improvements acts (the 1911 and 1913 acts) or landscape and lighting acts.

Disclosure of approval of the governing board to enter into any agreement for financing school construction pursuant to the California School Finance Authority Act under Education Code section 17170 et seq. was amended effective January 2007 to include charter schools, county offices of education, and school and community college districts.

Directions:

1. Prepare the certification form upon approval by the governing board to proceed with the issuance of certificates of participation (COPs) or revenue bonds, or to enter into an agreement for financing school construction pursuant to the California School Finance Authority Act, Education Code section 17170 et seq.
2. Attach the repayment schedule for the debt obligation and appropriate evidence of the ability of the school district to repay the debt obligation. Satisfactory evidence includes a projection of revenues and expenditures for the period of the repayment schedule that demonstrates the debt obligation can be repaid from anticipated revenues.
3. Transmit the certification with attachments to the County Auditor and Controller, County Superintendent of Schools, and the Governing Board at a public meeting.

Donald Steuer
Chief Financial Officer
County of San Diego
Finance and General Government Group
1600 Pacific Highway, Room 166
San Diego CA 92101

Randolph E. Ward, Ed.D.
County Superintendent of Schools
San Diego County Office of Education
6401 Linda Vista Road
San Diego CA 92111-7399

**Certification of Superintendent Regarding
Public Disclosure of Non-Voter-Approved Debt**

Pursuant to Education Code section 17150, you are hereby notified that on _____, 20__, the Governing Board of the _____ School District approved the issuance of the _____ [specify the debt obligation] _____. Attached as Exhibit A is the repayment schedule for that debt obligation. Attached as Exhibit B is a listing of the District's projected revenues and expenditures for the period of the repayment schedule that demonstrates the debt obligation can be repaid from anticipated revenues. [Include or attach any additional information demonstrating that the District has the capability to repay the debt obligation.]

I, _____, Superintendent of the _____ School District, hereby certify that the information contained in this certification, including the attachments, is accurate and correct to the best of my knowledge.

Superintendent

School District

Date

Donald Steuer
Chief Financial Officer
County of San Diego
Finance and General Government Group
1600 Pacific Highway, Room 166
San Diego CA 92101

Randolph E. Ward, Ed.D.
County Superintendent of Schools
San Diego County Office of Education
6401 Linda Vista Road
San Diego CA 92111-7399

**Certification of Superintendent Regarding Public Disclosure
of Agreement under California School Finance Authority Act**

Pursuant to Education Code section 17150, you are hereby notified that on _____, 20__, the Governing Board of the _____ School District approved the execution of an agreement for financing school construction pursuant to the California School Finance Authority Act, Education Code section 17170 et seq., for _____ [specify the debt obligation] _____. Attached as Exhibit A is the repayment schedule for that debt obligation. Attached as Exhibit B is a listing of the District's projected revenues and expenditures for the period of the repayment schedule that demonstrates the debt obligation can be repaid from anticipated revenues. [Include or attach any additional information demonstrating that the District has the capability to repay the debt obligation.]

I, _____, Superintendent of the _____ School District, hereby certify that the information contained in this certification, including the attachments, is accurate and correct to the best of my knowledge.

Superintendent

School District

Date

REQUIREMENTS FOR CALIFORNIA DEPARTMENT OF EDUCATION PROJECT APPROVAL

Legal Reference

- | | | |
|-----------------------------------|----|--|
| CCR, Title 14
§§ 15300 et seq. | 1. | When a school district determines that a project is exempt from the requirement of CEQA based on the guidelines in the California Code of Regulations (CCR), Title 14 and the school district approves or determines to carry out the project, it shall file a notice of exemption with the County Clerk with copies to the State Allocation Board when state financing is required. |
| CCR, Title 14
§ 15063 | 2. | If a project is subject to the requirements of CEQA and not exempt by the guidelines, the school district shall conduct an Initial Study to determine if the project may have a significant effect on the environment. The Initial Study shall be used to provide a written determination of whether a Negative Declaration or an Environmental Impact Report (EIR) shall be prepared for a project. |
| CCR, Title 14
§ 15080 | 3. | The EIR process should be combined with any other project approval process used by the agency. |
| CCR, Title 14
§ 15071 | 4. | A Negative Declaration shall be prepared for a project that could potentially have a significant effect on the environment, but which the school district finds on the basis of an Initial Study and project changes that reduce impacts to insignificant levels. Notice shall be given as prescribed to the state SFPD and also the State Allocation Board when state financing is required. |
| CCR, Title 14
§ 15072 | 5. | The lead agency intending to adopt a Negative Declaration or Mitigation Negative Declaration shall provide notice to the public. |
| CCR, Title 14
§ 15073 | 6. | An opportunity for public review of a Negative Declaration shall be provided prior to approval of the project. If the project does not reduce the amount of existing fish and wild life habitat, the district should prepare a Notice of De Minimus Impact. |
| CCR, Title 14
§ 15075 | 7. | A Notice of Determination shall be filed after the school district has made a decision to carry out or approve a project for which a Negative Declaration was approved. Notice shall be filed with the County Clerk with copies to the state SFPD and also the State Allocation Board when state financing is required. The Notice of De Minimus Impact should also be filed with the County Clerk. |

- CCR, Title 14 § 15083 8. Prior to completing the draft EIR, the school district should also consult directly with any person or organization it believes will be concerned with the environmental effect of the project.
- CCR, Title 14 § 15082 9. After determining that an EIR will be required for a project, the school district shall send a Notice of Preparation to the state SFPD and also the State Allocation Board when state financing is required.
- CCR, Title 14 § 15085 10. Notice of Completion must be filed with the Secretary of Resources and other interested parties.
- CCR, Title 14 § 15087 11. The school district shall provide the general public with an opportunity to comment on the draft EIR.
- CCR, Title 14 § 15089 12. The school district shall prepare a final EIR.
- CCR, Title 14 § 15090 13. The school district shall certify §15090 that the final EIR has been completed in compliance with CEQA.
- CCR, Title 14 § 15092 14. After considering the final EIR, the lead agency may approve the project.
- CCR, Title 14 § 15095 15. A copy of the final EIR shall be filed with the appropriate planning agency of any city or county that will be affected by the project. If the project is state-aided, the district must submit a copy to the State Clearing House, state SFPD, and State Allocation Board.
- CEQA Web site 16. CERES Environmental Law, Regulation, and policy:
<<http://ceres.ca.gov/ceqa>>

PROCESS FOR SCHOOL CONSTRUCTION PROJECTS

A construction project is defined as any new school building; any construction, alteration, or addition to a school building costing over \$15,000; lease or purchase of any relocatable structure; and any conversion of a non-school building to a school building.

