

REAL PROPERTY DISPOSITION PROCESS AND OPTIONS

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Presentation Outline

- Steps for disposing of “Surplus” Property – Sale or Lease of District owned property deemed surplus
- Explore Potential Lease Structures Available to CCDs:
 - Joint Use (Ed. Code § 81420, et seq.)
 - Joint Occupancy (Ed. Code § 81390, et seq.)
 - Sale or Lease between Agencies (Ed. Code § 81430, et seq.)
 - Property Exchange (Ed. Code § 81470, et seq.)

Surplus Property

Surplus Property Disposition Process

- **Notice of Intention.** A best practice before ordering sale or lease of property, is for the Board of Trustees (“Board”) to adopt a Resolution declaring its intention to sell or lease the property. (Ed. Code § 81365)
 - **Public Offerings/Notice.** Properties are offered to public entities as follows:
 - To park or recreational departments.
 - The Board may sell property, for less than fair market value, to any public entities in which the District is situated for park/recreational/open-space purposes if the Board adopts a resolution to such effect. (Ed. Code § 81190).
 - 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
 - The property shall be offered for sale or lease with an option to purchase, at fair market value;
 - Notice to local Planning Agency
 - Depending on which agency, has 40 or 60 days to respond (Ed. Code § 81363.5)
- (Ed. Code § 81365; Ed. Code § 81363.5; 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 § 81363.5)
- **Formal Bidding.** Steps for formal bidding for highest price.
 - Board adopts by 2/3 vote 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 § 81365)
 - District must post and publish notice of bid (Ed. Code § 81366; § 81368)
 - Bid opening occurs on day and time set forth in the resolution (Ed. Code § 81365)
 - Open session bid opening (Ed. Code § 81370)
 - Bid opening can be delegated by majority vote to officer/employee of the District
 - *Board must act to accept a bid or reject all bids. Board is not required to accept submitted bids.*

Surplus Property Disposition Process, cont'd

- Within Orange County. The Board of Governors (“BOG”) may authorize the Board to enter a negotiated sale of real property if the Board previously opened the bidding process two or more times and did not accept any bids. (Ed Code § 81371.5)

Surplus Property Disposition Process, cont'd: Waiver

- (Optional) Request a Waiver. The District may, after a public hearing and other specified procedures, request that the BOG waive the surplus steps outlined in the prior slides, i.e., the public offering steps and/or the formal bidding steps. (Ed. Code § 81250)
- At least 30 days prior to the hearing for the waiver request, District shall provide notice to any City, County, Park or Recreational District, Regional Park Authority or Public Housing Authority within which the land is situated. (Id)

Alternatives to Surplus

- District can lease any buildings, grounds, or space, not needed for academic activities, under certain conditions. (Ed. Code § 81378.1)
 - **5-Year Term Limit.** May be renewed on the same or different conditions.
 - **Board Action.** Before executing an Agreement, the Board must describe the proposed lease in the agenda and publish notice of the Board's intended action once a week for 3 weeks prior the Board meeting.
 - **Fair Market Value.** The Board agenda shall also include an explanation of the methodology used to establish the lease rate and for determining the fair market value of the lease.
 - **Not Entire Campus.** Board authority under Section 81378.1 does not apply to letting an entire campus.
- Other permitted forms of joint use include:
 - A lease with a veterans' association (Ed. Code § 81377); a 14-day lease (Id. at § 81378); leasing property with a residence on it for less than 3 months where a building cannot be developed due to unavailability of funds (Id. at § 81379); a lease for historic property, a lease with a city, county or private educational institutions (Id. at § 81420, et seq.)

Joint Occupancy

- Ed. Code section 81390, et seq.
- Joint occupancy allows the District and any private person, firm or corporation to enter into a long term lease of up to sixty-six (66) years.
 - Joint occupancy agreements are a type of “joint venture” that authorizes private development of District-owned property.
 - District must follow specific procedures to utilize as set forth in the following slides.

Joint Occupancy – Steps:

- **Prepare an RFP** to potential vendors inviting them to propose on entering into a joint occupancy agreement with the District.
- **Board Action.** Before advertising and issuing proposals, the Board must adopt a resolution declaring its intention (“ROI”) to consider proposals. (Ed. Code § 81397)
- **Publish the ROI and Issue Proposals.** After the Board adopts the ROI, the Ed. Code requires the District to publish the ROI once a week for three (3) weeks. (Ed. Code § 81398)

Joint Occupancy – Steps:

- **Hold the Public Meeting Advertised in the ROI.** This meeting must be not less than ninety (90) days after adoption of the ROI.
 - The Board must consider all proposals.
- **Board Approval.** The Board may select the plan or proposal which best meets the needs of the district and to enter into a contract incorporating that plan or proposal either as submitted or as revised.

Sale or Lease Between Public Agencies

- District can sell, exchange, grant, quitclaim, or lease its real property to the federal government or its agencies, to the state, or to any county and/or city or special district, or to any other school district. (Ed. Code § 81430)
 - Maximum lease term is 99 years.
 - The real property must not be needed for classroom buildings at the time of delivery of title or possession.
 - **Board Approval.** The Board must adopt a resolution authorizing such action by unanimous vote.
 - **Notice.** The resolution must be published once per week for 3 weeks prior to the execution of the agreement. (Ed. Code § 81432)

Property Exchange

- The Board may exchange any of its real property for real property of another entity. (Ed. Code § 81470)
 - An exchange shall be upon terms the parties may agree and may be entered into without complying with other disposition requirements.
 - **Resolution of Intention.** The Board must adopt a resolution by two-thirds vote declaring its intention. The resolution shall describe the properties and the terms and conditions, not including the price. (Ed. Code § 81471)
 - **Board of Appraisers.** The Board, other party, and the county superintendent of schools each shall appoint one member to a board of appraisers.
 - The board of appraisers shall make a report to the parties to the exchange and the county superintendent of schools of its determination of the cash values of the exchange properties. (Ed. Code § 81472)
 - The report may provide for payment by one of the parties to compensate for any difference in appraised values of the properties. (Ed. Code § 81472)

Property Exchange, cont'd.

- **Notice.** If the county superintendent of schools approves the report of appraisers, the Board must publish the resolution once per week for 2 weeks prior to the execution of the agreement. (Ed. Code § 81473)
- **Order.** At the time and place fixed in the Notice, the Board shall meet and consider the report of the appraisers. It then may order the exchange pursuant to the terms and conditions set forth in the resolution and the report of the appraisers. (Ed. Code § 81474)

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