

proposed disposition conforms to the general plan. If the planning agency disapproves of the disposition, such disapproval may be overruled by the school district.

(D) California Environmental Quality Act

Prior to disposing of the Property, school districts must comply with the California Environmental Quality Act ("CEQA"). School districts may seek a categorical exemption for the sale of surplus property pursuant to CEQA Guidelines section 15132.

(E) Deed Restrictions

Prior to selling any surplus property, a review of the real property deed should be made to discover any possible restrictions.

Requirements Regarding Offering Surplus Property

After the advisory committee recommends the sale of surplus property, a school district must offer to sell the property to certain public agencies as follows:

(A) Sale of Surplus Playground, Playing Fields and Recreational Property pursuant to Education Code section 17485, *et seq.* ("Naylor Act")

The purpose of the Naylor Act is for the preservation of recreational and open space property by allowing one governmental agency to purchase such property from another at a reduced price. (Education Code section 17485). In order to be subject to the requirements of the Naylor Act, the surplus property must be a site which has the following characteristics:

- a. The property consists of land which is used for school playground, playing field, or other outdoor recreational purposes and open-space land particularly suited for recreational purposes.
- b. The property must have been used for one or more of the purposes set forth in the preceding paragraph for at least eight years immediately preceding the date of the governing board's determination to sell the property.
- c. No other available publicly-owned land in the vicinity is adequate to meet the existing and foreseeable need to the community for playground, playing field, or other outdoor recreational and open-space purposes.

There are some exceptions and limitations to the Naylor Act which are summarized as follows:

- a. If a school building is already erected on the site, the governing board can retain a portion of the property and the surrounding property which must be retained to avoid reducing the value of that part of the school site

containing the structures to less than 50 percent of the fair market value. (Education Code section 17490.)

- b. The school district can exempt the property from the Naylor Act if it is purchasing a school site at another location or is expanding another school site by 50 percent or more. (Education Code section 17497.)
- c. A public agency can acquire only so much of the property so as not to exceed 30 percent of the total surplus land owned by the school district. (Education Code section 17499.)
- d. The acquiring agency must maintain the property's use as recreational or open-space property. (Education Code section 17494.)

If it is determined that the property is subject to the Naylor Act, pursuant to Education Code section 17489, the school district must notify the following government agencies regarding the availability of the Property:

- a. First, to any city within which the land may be situated.
- b. Second, to any park or recreation district within which the land may be situated.
- c. Third, to any regional park authority having jurisdiction within the area in which the land is situated.
- d. Fourth, to any county within which the land may be situated.

The notified agencies have sixty (60) days to respond to the school district in writing. If a particular public agency is interested in purchasing the property, Education Code section 17491 sets forth the method for calculating the purchase price. Pursuant to Education Code section 17491, any property sold pursuant to the Naylor Act ("Naylor Act Property") shall not exceed the school district's cost of acquisition, calculated as a pro rata cost of acquiring the entire parcel comprising the school site, adjusted by a factor equivalent to the percentage increase or decrease in the cost of living from the date of purchase to the year in which the offer of sale is made, plus the cost of any improvement to the recreational and open-space portion of the land which the school district has made since its acquisition of the land. In no event shall the price be less than twenty-five percent (25%) of the fair market value of the land or less than the amount necessary to retire the share of local bonded indebtedness plus the amount of the original cost of the approved state aid applications on the property.

(B) Requirements to Offer District Property to Other Public Agencies

If none of the public agencies listed in Education Code section 17489 purchase the surplus property, or if the property is not Naylor Act property as described above, school districts must proceed pursuant to Education Code section 17464 which requires that a