



CALIFORNIA STATE BOARD OF EDUCATION

MARCH 2005 AGENDA

General Waiver

<p>SUBJECT</p> <p>Request by the Santa Barbara High School District to waive portions of <i>Education Code</i> (EC) sections 17455, 17466, 17470, 17472, 17473, 17474, 17478, and 17489 regarding the lease of the "Tatum Site" a 23-acre undeveloped site, to develop a model workforce housing project.</p> <p>Waiver Number: 7-11-2004</p>	<p><input checked="" type="checkbox"/> Action</p> <p><input type="checkbox"/> Consent</p>
---	---

RECOMMENDATION

Approval Approval with conditions Denial

The District shall be granted the waiver for disposition of the Tatum Site only on condition that the district will:

- 1) Adopt a resolution to lease a specific piece of property, specify a price, but not a minimum price, and accept proposals, but not necessarily sealed proposals (see EC 17466).
- 2) Notify the former owner of the property of its intent to lease the property but shall not be required to accord the former owner the right to purchase the property, not even if the owner's bid is the highest (see EC 17470).
- 3) Direct the president of the governing board, or other presiding officer, to execute a lease after a resolution of acceptance is made by the governing board to accept an offer, but not any offer (see EC 17478).
- 4) Comply with the Naylor Act and offer the property, first, to any city within which the land is situated; second, to any park or recreation district within which the land is situated; third, to any regional park authority having jurisdiction within the area in which the land is situated. The District will not have to offer the property to the county within which the land is situated (see EC 17489).
- 5) EC 33050(c) applies, but is limited to the Tatum Site location.

SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In February 2002, the State Board of Education (SBE) analyzed the EC related to the sale and lease of property. SBE recommended specific portions of the EC that may be considered for waiver, and listed those that did not need to be waived. After considering this analysis in some detail, the request was modified as follows.

This will be the second waiver of this type—SBE approved a sale and lease waiver for the San Jose Unified School District in September 2004, with similar site and waiver limitations.

SUMMARY OF KEY ISSUES

Under the provisions of EC sections 33050-33053, the Santa Barbara High School District (District) requests specific portions of the EC sections relating to the sale and disposition of property be waived in order to negotiate a lease directly with a non-profit organization that will provide workforce housing for district staff.

The District wishes a partial waiver of EC 17466, specifically the strikeout in language as follows: “The resolution shall describe the property proposed to be sold or leased in such a manner as to identify it and shall specify the ~~minimum~~ price or rental...” This will allow the District the discretion to deal directly with the non-profit organization willing to provide the workforce housing.

Another portion of EC 17466 to be partially waived is the following language: “The resolution shall fix a time not less than three weeks thereafter for a public meeting of the governing board to be held at its regular place of meeting, at which proposals to purchase or lease will be received and considered.” Again, this waiver would allow the District to deal directly and honestly with a specific lessee.

The District seeks a partial waiver of EC 17470 (b), specifically the strikeout in language as follows: “The governing board of a school district shall not be required to accord the former owner the right to purchase the property ~~at the tentatively accepted highest bid price~~ nor to offer to sell the property to the former owner ~~at the tentatively accepted highest bid price.~~” Again, by waiving this language, the District preserves the right to negotiate with a specific lessee.

The District requests that EC 17472 in its entirety be waived. By waiving this section, the District eliminates the requirement for receiving sealed proposals and accepting the highest bid. Waiving this section allows the District to negotiate with a specific lessee.

The District requests that EC 17473 in its entirety be waived. By waiving this section, the District does not have to accept oral bids. Waiving this section allows the District to negotiate with a specific lessee.

The District requests that EC 17474 in its entirety be waived. This section is irrelevant given that oral bid possibilities have been eliminated by waiving EC 17473 (above).

The District requests that a portion of EC 17478 be waived, specifically the strikeout in language as follows: “Any resolution of acceptance ~~of any bid~~ made by the governing board authorizes and directs the president of the governing board, or other presiding officer, to execute a deed or lease...” Waiving this portion cleans up the section, since the governing board will be submitting for execution a specific bid, not “any bid.”

The District requests that subsection (d) of EC 17489 be waived, to eliminate the need to offer to sell or lease the property to the county. By waiving this language, the District preserves the right to negotiate with a specific, ideal lessee.

Under the restrictions of 33050(7), this waiver will not apply to large provisions in Part

10.5 of the EC, thereby keeping all other public protections in place.

CDE recommends approval of the waiver as stated for the "Tatum Site" with conditions listed, including EC 33051(c) for this site only.

Authority for Waiver: *Education Code* (EC) Section 33050

Period of request: March 2005 through March 2007

Local board approval date(s): November 9, 2004

Public hearing held on date(s): November 9, 2004

Bargaining unit(s) consulted on date(s): September 17, 2004 and September 21, 2004

Name of bargaining unit/representative(s) consulted:

Ken Stevens, Santa Barbara Teachers Association
Bill Millard, California School Employees Association

Position of bargaining unit(s) (choose only one):

Neutral Support Oppose

Comments (if appropriate):

Public hearing advertised by (choose one or more):

posting in a newspaper posting at each school other (specify)

Advisory committee(s) consulted: Real Property District Advisory Committee

Objections raised (choose one): None Objections are as follows:

Date(s) consulted: September 17, 2004

FISCAL ANALYSIS (AS APPROPRIATE)

Housing in the Santa Barbara area is some of the most expensive in the state. By offering its workforce affordable options, the District can attract and maintain quality staff. The parcel of land to be leased is undeveloped.

BACKGROUND INFORMATION

Action Item: Some documentation is available for web viewing. Waiver forms and other hard copy documents are available for viewing at the Waiver Office or State Board Office.

Attachments:

- General Waiver Request and Attachments (7 pages)