



**DEL MAR UNION SCHOOL DISTRICT**  
**ARTICLE 7**  
**FACILITIES**  
**(Series 7000)**

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NOTE: The CSBA comprehensive index/table of contents is widely used by districts throughout the state. It provides a standard index system designed to accommodate future policies/regulations and at the same time provides a table of contents for this manual. This manual contains only those Board policies (BP), administrative regulations (AR) and exhibits (E) specified in the right-hand column.

		CODE
<b>0.</b>	<b>Concepts and Roles .....</b>	<b>7000 BP</b>
<b>1.</b>	<b>Planning and Design</b>	
	A. Facilities Master Plan .....	7110 BP
	1. Evaluating Existing Buildings .....	7111 AR
	B. Relations with other Governmental Units	
	1. Relations with Local Agencies .....	7131 BP
	D. Architectural and Engineering Services.....	7140 BP/AR
	E. Site Selection and Development .....	7150 BP/AR
	F. Charter School Facilities.....	7160 BP/AR
<b>2.</b>	<b>Financing</b>	
	A. Facilities Financing.....	7210 BP
	1. Developer Fees .....	7211 BP/AR
	2. Mello-Roos Districts .....	7212 BP
	3. School Facilities Improvement Districts .....	7213 BP/AR
	4. General Obligation Bonds .....	7214 BP/AR
<b>3.</b>	<b>Acceptance/Dedication/Occupation</b>	
	A. Naming of Facility .....	7310 BP

**DEL MAR UNION SCHOOL DISTRICT**  
**FACILITIES**

**BOARD POLICY 7000: CONCEPTS AND ROLES**

The Governing Board recognizes that one of its major responsibilities is to provide healthful, safe and adequate facilities that enhance the instructional program. The Board shall endeavor to make the provision of adequate school facilities a priority in the district. Because the schools serve as a focal point for the community, the Board shall also strive to ensure that district facilities fit harmoniously and attractively into their neighborhoods and have flexibility of design to meet future educational and community needs.

The Board shall strive to have a school facilities master plan in place and regularly reviewed in light of the district's educational goals. In accordance with this plan, the Board shall:

1. Approve additions or major alterations to existing buildings
2. Determine what new buildings shall be built, when and where, and what equipment shall be purchased for them
3. Determine the method of financing that will be used
4. Select and purchase school sites for future expansion
5. Approve the selection of architects and structural engineers
6. Award contracts for design and construction
7. Name schools and individual buildings
8. Advocate school facility needs to the community

The Superintendent or designee shall:

1. Assess the district's short- and long-term facility needs
2. Direct the preparation and updating of the facilities master plan
3. Oversee the preparation of bids and award of contracts
4. Supervise the implementation of the district's building program in accordance with the master plan, Board policy, and state and local requirements, including collaboration with the architect and contractor on the construction of new facilities and modernization of existing facilities
5. Represent the district in official governmental interactions related to the building program

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**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

**DEL MAR UNION SCHOOL DISTRICT**  
**FACILITIES**

**BOARD POLICY 7110: FACILITIES MASTER PLAN**

The Governing Board recognizes the importance of long-range planning for school facilities in order to help meet the changing needs of district students and to help ensure that resources are allocated in an efficient and effective manner. To that end, the Board directs the Superintendent or designee to develop and maintain a master plan for district facilities.

The plan shall describe the district's anticipated short- and long-term facilities needs and priorities and shall be aligned with the district's educational goals.

The Superintendent or designee shall ensure that staff, parents/guardians, students, and business and community representatives are kept informed of the need for construction and modernization of facilities and of the district's plans for facilities. The Superintendent or designee may also establish a facilities committee that shall meet at regular intervals in order to give community members opportunities to provide input into the planning process. The committee may consult local governmental and state planning agencies in order to ensure compliance with local and state standards.

At least 45 days prior to completion of any facilities plan that relates to the potential expansion of existing school sites or the necessity to acquire additional school sites, the Superintendent or designee shall notify and provide copies of the plan or any relevant and available information to the planning commission or agency of the city or county with land use jurisdiction within the district. (Government Code 65352.2)

If the city or county commission or agency requests a meeting, the Superintendent or designee shall meet with them within 15 days following the notification. Items that the parties may discuss at the meeting include, but are not limited to, methods of coordinating planning with proposed revitalization efforts and recreation and park programs, options for new school sites, methods of maximizing the safety of persons traveling to and from the site, and opportunities for financial assistance. (Government Code 65352.2)

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**Legal Reference:**

EDUCATION CODE

16011 Long range comprehensive master plan

16322 Department of Education services

17017.5 Approval of applications for projects

17251 Powers and duties of CDE

17260-17268 Plans of schoolhouses

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 5

14001 Minimum standards

14030-14036 Standards, planning and approval of school facilities

UNITED STATES CODE, TITLE 42

12101-12213 Americans with Disabilities Act

**Management Resources:**

WEB SITES

Office of Public School Construction: <http://www.opsc.dgs.ca.gov>

CDE, School Facilities Division: <http://www.cde.ca.gov/facilities>

**DEL MAR UNION SCHOOL DISTRICT**  
**FACILITIES**

**ADMINISTRATIVE REGULATION 7111: EVALUATING EXISTING BUILDINGS**

The Superintendent or designee shall periodically evaluate the adequacy and design of existing district facilities to determine whether they meet the needs of the instructional program, provide a healthful and pleasing environment for students and staff, and fulfill legal requirements for safety and structural soundness, access for the disabled and energy conservation.

In the event that the Department of General Services or any licensed structural engineer or licensed architect finds and reports to the Governing Board that a district building is unsafe for use, the Superintendent or designee shall immediately obtain an estimate of the cost of repairs or reconstruction necessary to bring the building up to legal standards for structural safety. The Board shall establish a system of priorities for the repair, reconstruction or replacement of unsafe school buildings. (Education Code 17367)

**Energy Efficiency**

When evaluating existing buildings, the Superintendent or designee shall arrange for the pre-audit and post-audit of school buildings by utility firms to the extent that these services are available. Information provided by these services shall be used to determine the cost of retrofitting the buildings and the savings which may result from adding insulation, making design modifications or using other energy-conserving devices. The district may contract with qualified businesses capable of retrofitting these buildings and may borrow funds, which do not exceed the amount of energy savings to be accumulated from the improvement of the buildings. (Education Code 17651-17653)

***Report of Existing Building Capacity***

The district shall submit a one-time report of existing school capacity to the State Allocation Board. The district's, or where appropriate the attendance area's, existing school capacity shall be calculated pursuant to the formulas set forth in Education Code 17071.10-17071.40 and in 2 CCR 1859-1859.106.

**Legal Reference:**

EDUCATION CODE

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

17071.10-17071.40 Existing school building capacity

17280-17316 Building approvals

17365-17374 Fitness for occupancy

17650-17653 Retrofitting school facilities for energy conservation

GOVERNMENT CODE

53097 Compliance with city or county ordinances

53097.5 Inspection of schools by city or county

CODE OF REGULATIONS, TITLE 2

1859-1859.106 Regulations relating to the Leroy F. Greene School Facilities Act of 1998

**Management Resources:**

WEB SITES

Department of General Services, Office of Public School Construction:

<http://www.dgs.ca.gov/opsc/>

**DEL MAR UNION SCHOOL DISTRICT**  
**FACILITIES**

**BOARD POLICY 7131: 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)

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.

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**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

**Management Resources:**

WEB SITES

Office of Public School Construction: <http://www.opsc.dgs.ca.gov>

CDE, School Facilities Division: <http://www.cde.ca.gov/facilities>

**DEL MAR UNION SCHOOL DISTRICT**  
**FACILITIES**

**BOARD POLICY 7140: ARCHITECTURAL AND ENGINEERING SERVICES**

In order to ensure safe construction and protect the investment of public funds, the Governing Board requires that a licensed and certified architect or structural engineer be employed to design and supervise the construction of district schools and other facilities.

The Superintendent or designee shall devise a competitive process for the selection of architects and structural engineers that is based on demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. For each project, he/she shall recommend specific architectural and engineering firms to the Board. The Board shall pay fair and reasonable amounts warranted by the provider's qualifications and competence. The Board need not select the lowest responsible bidder.

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***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

**DEL MAR UNION SCHOOL DISTRICT**  
**FACILITIES**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 7140:**  
**ARCHITECTURAL AND ENGINEERING SERVICES**

The Governing Board 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)

**DEL MAR UNION SCHOOL DISTRICT**  
**FACILITIES**

**BOARD POLICY 7150: SITE SELECTION AND DEVELOPMENT**

The Governing Board 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.

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**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  
17250.10-17250.50 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

PUBLIC RESOURCES CODE

21000-21178 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)

**Management Resources:**

WEB SITES

CDE, School Facilities Planning Division: <http://www.cde.ca.gov/dmsbranch/sfpdiv>

Office of Public School Construction: <http://www.opsc.dgs.ca.gov/>

**DEL MAR UNION SCHOOL DISTRICT**  
**FACILITIES**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 7150:**  
**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'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. (Education Code 17212-17212.5)
4. Ensure that the site meets state standards for school site selection as specified in 5 CCR 14010-14012.
5. Ensure compliance with the California Environmental Quality Act (CEQA) as required by law. (Public Resources Code 21000-21178)
6. If the proposed site is within two miles of the air line of an airport runway or proposed runway, before acquiring title to the site, notify the California Department of Education (CDE) in writing. (Education Code 17215)

In the selection and development of projects funded pursuant to 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)

**DEL MAR UNION SCHOOL DISTRICT**  
**FACILITIES**

**BOARD POLICY 7160: CHARTER SCHOOL FACILITIES**

Upon request by a charter school operating within the district, the Governing Board shall provide facilities in accordance with law, Board policy, and administrative regulation.

A charter school must be operating in the district as defined in Education Code 47614 before it submits a request for facilities. A new or proposed charter school operating within the district is eligible to request facilities for a particular fiscal year only if it submits its charter petition before November 1 of the fiscal year preceding the year for which facilities are requested. A new charter school is entitled to be allocated and/or provided access to facilities only if it receives approval of the petition before March 15 of the fiscal year preceding the year for which facilities are requested.

The Superintendent or designee shall ensure that requests received are evaluated and processed in accordance with law, Board policy, and administrative regulation.

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 consider the offer and make a specific finding that the district cannot accommodate the charter school's students at a single school site, and adopt a written statement of reasons explaining the finding.

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***Legal Reference:***

**EDUCATION CODE**

*17070.10-17080 Leroy F. Greene School Facilities Act of 1998, including:*

*17078.52-17078.66 Charter schools facility funding; state bond proceeds*

*17280-17317 Field Act*

*46600 Interdistrict attendance agreements*

*47600-47616.5 Charter Schools Act of 1992 as amended*

*48204 Residence requirements for school attendance*

**GOVERNMENT CODE**

*53094 Authority to render zoning ordinance inapplicable*

*53097.3 Charter School ordinances*

**CODE OF REGULATIONS TITLE 5**

*11969.1-11969.10 Charter school facilities*

**CODE OF REGULATIONS TITLE 2**

*1859.2 Definitions*

*1859.31 Classroom inventory*

**COURT DECISIONS**

*1859.160-1859.171 Charter school facilities program, new construction*

*Ridgecrest Charter School v Sierra Sands Unified School District 130 Cal. App. 4<sup>th</sup> 986*

*Sequoia Union High School District v. Aurora Charter High School (2003) 112 Cal. App. 4<sup>th</sup> 185*

**DEL MAR UNION SCHOOL DISTRICT**  
**FACILITIES**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 7160:**  
**CHARTER SCHOOL FACILITIES**

This regulation governs the district's provision of facilities to charter schools operating in the district, as defined by Education Code 47614. Nothing in this regulation prevents the district and charter school from agreeing to an alternative to specific compliance with the following.

**Definitions**

Average daily classroom attendance (ADA) or classroom ADA is ADA for classroom-based apportionment as used in Education Code 47612.5. (5 CCR 11969.2)

In-district classroom ADA is classroom ADA attributable to in-district students. In-district students are those charter school students who are entitled to attend a district school. Students eligible to attend district schools based on an interdistrict attendance agreement or parent/guardian employment shall be considered student(s) of the district(s) where they reside. (5 CCR 11969.2)

The district shall not include nonclassroom-based ADA in the "in-district classroom ADA" for purposes of offering reasonably equivalent facilities.

An eligible charter school operating in the district is one that is either currently providing public education to more than eighty (80) in-district students or has identified at least eighty (80) in-district students who are meaningfully interested in enrolling in the charter school for the following year, regardless of whether the district is or is not proposed to be the chartering entity and whether or not the charter school has a facility inside the district's boundaries. (Education Code 47614; 5 CCR 11969.2)

"Furnished and equipped" means the facilities include reasonably equivalent furnishing necessary to conduct classroom instruction and to provide for student services that directly support classroom instruction as found in the comparison group schools established under 5 CCR 11969.3(a), and that the facilities have equipment that is reasonably equivalent to the comparison group schools. Equipment means property that does not lose its identity when removed from its location and is not changed materially or consumed immediately (e.g., within one year). Equipment has relatively permanent value and its purchase increases the total value of the district's physical properties. Examples include furniture, vehicles, machinery, motion picture film, videotape, furnishings that are not an integral part of the building or building system, and certain intangible assets such as major software programs. Furnishings and equipment acquired for a school site

with non-district resources are excluded when determining reasonable equivalence. (5 CCR 11969.2)

**Determination of Reasonably Equivalent Facilities**

The district shall provide facilities to a charter school sufficient to accommodate charter school students in conditions reasonably equivalent to those in which the students would be accommodated if they were attending other public schools of the district. (Education Code 47614; 5 CCR 11969.3)

The district is not required to modify a school site to accommodate the charter school's grade-level configuration; however, the district and charter school may enter into an agreement to modify an existing school site with the costs modification and the return to its original condition after use to be paid exclusively by the charter school. (5 CCR 11969.3)

Reasonably equivalent conditions shall be determined on the basis of: (5 CCR 11969.3)

1. A comparison group of district schools with similar grade levels, selected in accordance with 5 CCR 11969.3

If none of the district-operated schools has grade levels similar to the charter school, then a contiguous facility shall be an existing facility that is most consistent with the needs of the students in the grade levels served at the charter school. If a charter school's grade-level configuration is different from the configuration of the district's schools, the district is not obligated to pay for the modification of a school site to accommodate the charter school's differing grade level configuration. (5 CCR 11969.3)

2. Facilities will include an equivalent ratio of teaching stations (classrooms) to ADA as those provided to district students attending comparison group schools. District ADA shall be determined using projections for the fiscal year and grade levels for which facilities are requested. (5 CCR 11969.3)

The number of teaching stations shall be determined using the classroom inventory prepared pursuant to 2 CCR 1859.31, adjusted to exclude classrooms identified as interim housing. Interim housing means the rental or lease of classrooms used to house students temporarily displaced as a result of the modernization of classroom facilities, as defined in 2 CCR 1859.2, and classrooms used as emergency housing for schools vacated due to structural deficiencies or natural disasters. (5 CCR 11969.3)

If the district includes specialized classroom space, such as science laboratories, in its classroom inventory, the space allocation shall include either a share of specialized classroom space or a provision for access to reasonably equivalent specialized classroom space. The amount of specialized classroom space shall be determined by the grade levels of the charter school's in-district students, the charter school's total

in-district classroom ADA, and the per-student amount of specialized classroom space in the comparison group schools. Temporary use of excess classrooms by school site administrators for non-classroom purposes shall not constitute “specialized classroom space” under this regulation.

The district shall allocate and/or provide access to non-teaching station space commensurate with the in-district classroom ADA of the charter school and the per-student amount of non-teaching station space in the comparison group schools. Non-teaching station space is all of the space that is not identified as teaching station space or specialized classroom space and includes, but is not limited to, administrative, kitchen, multi-purpose room, and play area space. (5 CCR 11969.3)

In allocated and/or providing access to space, the district and the charter school shall establish time allocations and schedules so that educational programs of the district and charter school are least disrupted. (5 CCR 11969.3)

3. Condition of facilities, as determined by assessing such factors as age of facilities (from last modernization), quality of materials, and state of maintenance, including: (5 CCR 11969.3)
  - a. School site size
  - b. Condition of interior and exterior surfaces
  - c. Condition of mechanical, plumbing, electrical, and fire alarm systems, including conformity to applicable codes
  - d. Availability and condition of technology infrastructure
  - e. Condition of the facility as a safe learning environment, including, but not limited to, the suitability of lighting, noise mitigation, and size for intended use
  - f. Condition of the facility's furnishing and equipment
  - g. Condition of athletic fields and/or play area space

If a charter school was established through the conversion of an existing public school, the condition of the facility that housed the converted public school program shall be considered to be reasonably equivalent for the first year the charter school uses a facility. (5 CCR 11969.3)

**Request and Provision of Facilities: Timelines and Procedures**

A charter school must be operating in the school district, as defined by Education Code section 47614 before it submits a request for facilities. A new or proposed charter school

is only eligible to request facilities if its charter petition was submitted on or before November 1 of the fiscal year preceding the year for which facilities are requested. A new charter school is entitled to be allocated or provided access to facilities only if it receives approval of the petition before March 15 of the fiscal year preceding the year for which facilities are requested. (5 CCR 11969.9)

The following procedures shall apply to a charter school's request for and the district's provision of facilities:

1. On or before November 1, a charter school shall submit a written request for facilities to the Superintendent or designee for the next fiscal year. The request shall include at least the following:
  - a. Reasonable projections of in-district and total ADA and in-district and total classroom ADA, based on ADA claimed for apportionment, if any, in the fiscal year prior to the fiscal year in which the facilities request is made, adjusted for expected changes in enrollment in the forthcoming fiscal year  
  
Projections of in-district ADA, in-district classroom ADA, and the number of in-district students shall be broken down by grade level and by the district school that the student would otherwise attend. The projections must contain enough information for the district to verify each student's residency within in the district.
  - b. A description of the methodology for the projections
  - c. If relevant (i.e., when a charter school is not yet open or to the extent an operating charter school projects a substantial increase in ADA), documentation of the number of in-district students meaningfully interested in attending the charter school that is sufficient for the district to determine the reasonableness of the projection, but that need not be verifiable for precise arithmetical accuracy
  - d. The charter school's operational calendar
  - e. Information regarding the district's school site and/or general geographic area in which the charter school wishes to locate
  - f. Information on the charter school's educational program, if any, that is relevant to assignment of facilities

In submitting a facilities request containing at least all of the information specified in this paragraph (1), the charter school shall use the form available from the California Department of Education (CDE) or other form specified by the district. The charter school shall distribute, or otherwise make available for review, the written request to interested parties, including, but not limited to, parents/guardians and school staff.

2. On or before December 1, the district shall review the charter school's projections of in-district and total ADA and in-district and total classroom ADA, express any objections in writing, and state the projections the district considers reasonable. If the district does not express any objections in writing and state its own projections by the deadline, the charter school's projections are no longer subject to challenge and the district shall base its offer of facilities on those projections. (5 CCR 11969.9)
3. On or before January 2, the charter school shall respond to any objections expressed by the district and to the district's attendance projections provided pursuant to item #2 above. The charter school shall reaffirm or modify its previous projections as necessary to respond to the information received from the district pursuant to item #2. If the charter school does not respond by January 2, the district's projections provided pursuant to item #2 are no longer subject to challenge and the district shall base its offer of facilities on those projections. (5 CCR 11969.9)
4. On or before February 1, the district shall prepare a written preliminary proposal regarding the space to be allocated to the charter school and/or to which the charter school is to be provided access. At a minimum, the preliminary proposal shall include: (5 CCR 11969.9)
  - a. The projections of in-district classroom ADA on which the proposal is based
  - b. The specific location(s) of the space
  - c. All conditions pertaining to the space, including a draft of any proposed agreement pertaining to the charter school's use of the space
  - d. The projected pro rata share amount and a description of the methodology used to determine that amount
  - e. A list and description of the comparison group schools used in developing the district's preliminary proposal and a description of the difference between the preliminary proposal and the charter school's request submitted pursuant to item #1 above

In evaluating and accommodating the charter school's request, the charter school's in-district students shall be given the same consideration as students in the district's schools, subject to the requirement that the facilities provided must be contiguous. (5 CCR 11969.2) Facilities are contiguous if they are contained on a school site or immediately adjacent to a school site. If the in-district classroom ADA cannot be accommodated on any single school site, contiguous facilities also includes facilities located at more than one site. Where in-district classroom ADA cannot be accommodated on any single site, the district will minimize the number of sites assigned and will consider student safety in determining available contiguous facilities. (5 CCR 11969.2)

5. On or before March 1, the charter school shall respond in writing to the district's preliminary proposal made pursuant to item #4 above and shall express any concerns, including addressing differences between the preliminary proposal and the charter school's request, and/or make a counter proposal. (5 CCR 11969.9)
6. On or before April 1, having reviewed any concerns and/or counter proposals made by the charter school pursuant to item #5 above, the district shall submit, in writing, a final notification of the space offered to the charter school. The notification shall include a response to the charter school's concerns and/or counter proposal, if any. The final notification shall specifically identify: (5 CCR 11969.9)
  - a. The teaching stations, specialized classroom spaces, and non-teaching station spaces offered for the exclusive use of the charter school and the teaching stations, specialized classroom spaces, and non-teaching spaces to which the charter school is to be provided access on a shared basis with district-operated programs
  - b. Arrangements for sharing any shared space
  - c. The in-district classroom ADA assumptions for the charter school upon which the allocation is based, and if the assumptions are different than those submitted by the charter school pursuant to item #3 above, a written explanation of the reasons for the differences
  - d. The specific location(s) of the space
  - e. All conditions pertaining to the space
  - f. The pro rata share amount
  - g. The payment schedule for the pro rata share amount, which shall take into account the timing of revenues from the state and from local property taxes

If the district's preliminary proposal pursuant to item # 4 or final notification pursuant to item #6 does not accommodate a charter school at a single school site, the district's governing board will make a finding that the charter school could not be accommodated at a single site and adopt a written statement of reasons explaining the finding.

7. By May 1 or within 30 days after the district notification pursuant to item #6 above, whichever is later, the charter school shall notify the district in writing whether or not it intends to occupy the offered space. (5 CCR 11969.9)

The charter school's notification may be withdrawn or modified before this deadline. After the deadline, if the charter school has notified the district that it intends to

occupy the offered space, the charter school is committed to paying the pro rata share amount as identified. If the charter school does not notify the district by this deadline that it intends to occupy the offered space, then the space shall remain available for district programs and the charter school shall not be entitled to use facilities of the district in the following fiscal year. (5 CCR 11969.9)

8. The district and charter school shall negotiate an agreement regarding the use of and payment for the space. In addition, the district shall provide a draft of any proposed agreement pertaining to the charter school's use of the space in conjunction with the preliminary offer, as detailed in item #4 above. (5 CCR 11969.9)
  - a. At a minimum, the agreement shall contain the information included in the district's final notification, as listed in item #6 above.
  - b. The charter school shall maintain general liability insurance naming the district as an additional insured in order to indemnify the district for any damage and losses occurring on or to the allocated space. The district shall maintain first party property insurance for the facilities allocated to the charter school.
  - c. The charter school shall comply with Board policies regarding the operations and maintenance of school facilities, furnishings, and equipment.
  - d. A reciprocal hold-harmless/indemnification provision shall be established between the district and the charter school.
  - e. The district shall be responsible for any modifications necessary to maintain the facility in accordance with Education Code 47610(d) or 47610.5.
9. The space allocated to the charter school by the district, or the space to which the district provides the charter school access, shall be furnished, equipped, and available for occupancy at least ten (10) working days prior to the first day of instruction of the charter school. For good cause, the district may reduce the period of availability to a period of not less than seven (7) working days. (5 CCR 11969.9)

Space allocated for use by the charter school, subject to sharing arrangements, shall be available for the charter school's entire school year regardless of the district's instructional year or class schedule. The charter school shall not sublet or use the facilities for purposes other than those that are consistent with the agreement in item #8, as well as Board policies and district practices for use of other public schools of the district without permission of the Superintendent or designee. (5 CCR 11969.5)

10. Facilities, furnishings, and equipment provided to a charter school by the district shall remain the property of the district and shall be used in accordance with the district's policies, schedules and practices. The ongoing operations and maintenance of facilities, furnishings, and equipment shall be the responsibility of the charter school, and the charter school shall comply with district policies regarding the operations and

maintenance of the school facility and furnishings and equipment, unless a variation is approved by the district. (Education Code 47614; 5 CCR 11969.4)

**Charges for Facilities Costs**

The district shall not be required to use unrestricted general fund revenues to rent, buy, or lease facilities for charter schools. The district may charge the charter school for a pro-rata share of the district's facilities costs for the charter school's use of the facilities in accordance with 5 CCR 11969.7. (Education Code 47614)

The charter school shall pay the district a pro-rata share, not exceeding a per-square-foot amount equal to district facilities costs which the district has paid with unrestricted general fund resources, divided by the total space of the school district, times the amount of space allocated by the district to the charter school. The per-square-foot charge shall be determined using actual facilities costs in the year preceding the fiscal year in which facilities are provided, as well as the largest amount of total space of the district at any time during the year preceding the fiscal year in which facilities are provided. Space allocated by the district shall be calculated based on the amount of space allocated for the exclusive use of the charter school compared to the amount of space allocated to the exclusive use of the district-operated programs.

General fund means the main operating fund of the district which is used to account for all activities except those that are required to be accounted for in another fund. (5 CCR 11969.2)

Unrestricted revenues are those funds whose uses are not subject to specific constraints and that may be used for any purposes not prohibited by law. Restricted revenues are those funds received from external sources that are legally restricted or that are restricted by the donor to specific purposes. Programs funded by a combination of restricted and unrestricted sources will be accounted for and reported as restricted and funds or activities that are not restricted or designated by the donor, but rather by the Governing Board, shall be accounted for and reported as unrestricted. (5 CCR 11969.2)

Facilities costs are those activities concerned with keeping the physical plant open, comfortable, and safe for use and keeping the grounds, buildings, and equipment in working condition and a satisfactory state of repair. These include the activities of maintaining safety in buildings, on the grounds, and in the vicinity of schools, as well as plant maintenance and operations, facilities acquisition and construction, and facilities rents and leases. (5 CCR 11969.2)

Facilities costs also include contributions from unrestricted general fund revenues to the district's Ongoing and Major Maintenance Account, Routine Restricted Maintenance Account, and/or deferred maintenance fund, costs paid from unrestricted general fund revenues for projects eligible for funding but not funded from the deferred maintenance fund, costs paid from unrestricted general fund revenue for replacement of facilities-

related furnishings and equipment, according to district schedules and practices, and debt services costs.

Facilities costs do not include any costs that are paid by the charter school, including costs associated with ongoing operations and maintenance, and the costs of any tangible items adjusted in keeping with a customary depreciation schedule for each item.

The charter school shall report actual in-district and total ADA and classroom ADA to the district every time that the charter school reports ADA for apportionment purposes. The charter school must maintain records documenting the data contained in the reports, and shall make those records available on request by the district.

If the charter school generates less ADA than projected, the charter school shall reimburse the district for the over-allocated space as set forth in 5 CCR 11969.8, unless the district agrees, in response to the notification by the charter school of over-allocation, to exercise its sole discretion to use the over-allocated space for district programs. (Education Code 47614; 5 CCR 11969.8, 11969.9)

If the district is the charter school's authorizing entity, the district may only charge for the actual costs of supervisory oversight of the charter school not to exceed one percent of the school's revenue.

Additional Provisions for Charter School Established at an Existing School Site (Conversion Charter Schools)

The following provisions apply only to a charter school established at an existing school site pursuant to Education Code 47605(a)(2), 52055.5, 52055.55, or 52055.650 that operated at the site in its first year pursuant to 5 CCR 11969.3(c)(2). (5 CCR 11969.3)

1. The school site, as identified in the school's charter and approved by the district in the petition process, shall be made available to the charter school for its second year of operation and thereafter upon annual request for facilities from the district pursuant to Education Code 47614 and this administrative regulation if the charter school was allowed to and occupied that site during its first year of operation. (5 CCR 11969.3)

The district may charge the charter school the pro-rata costs for the site pursuant to 5 CCR 11969.7 and the district shall be entitled to receive reimbursement for over-allocated space from the charter school pursuant to 5 CCR 11969.8. During the first year of operation, the charter school shall be subject to pro rata facilities costs, but shall not be subject to reimbursement for over-allocated space. (5 CCR 11969.3)

If, by February 1 of its first year of operation, a charter school notifies the district that it will have over-allocated space in the following fiscal year, the space identified is not subject to reimbursement for over-allocation space pursuant to 5 CCR 11969.8 in the following year or thereafter. The district may occupy all or a portion of the space identified. (5 CCR 11969.3)

A charter school that wants to recover space surrendered to the district shall apply to the district and the district shall evaluate the application in accordance with law and this administrative regulation. (5 CCR 11969.3)

2. If, as a result of a material revision of the charter, either the location of the charter school is changed or the district approves the operation of additional sites by the charter school, then the charter school may request, and the district shall provide, facilities in accordance with the revised charter, law, and this administrative regulation. (5 CCR 11969.3)
  - a. If the charter school was established pursuant to Education Code 47605(a)(2), the district shall change the school's attendance area only if the State Board of Education (SBE) grants a waiver of the requirement in Education Code 47605(d)(1) that the charter school continuously give admission preference to students residing in the former attendance area of the school site. (5 CCR 11969.3)
  - b. If the charter school was established pursuant to Education Code 52055.5, 52055.55, or 52055.650, the district shall relocate the school or change the school's attendance area only if the SBE grants a waiver of the provision of statute binding the school to the existing site. (5 CCR 11969.3)
  - c. If the district decides to change the charter school's attendance areas as provided in #2(a) or 2(b) above, and if the decision occurs between November 1 and June 30 and becomes operative in the forthcoming fiscal year, then the space allocated to the charter school is not subject to reimbursement for over-allocated space pursuant to 5 CCR 11969.8 in the forthcoming fiscal year. (5 CCR 11969.3)

A conversion charter school has no automatic entitlement to retain the converted school site during its first year of operation. The conversion charter may only operate at the converted school site if called for in the charter school petition and agreed to by the district in the charter approval process. Should a conversion charter operate at an existing public school site in its first year of operation, as identified in the school's charter, that school site shall be made available to the school for its second year of operation and thereafter upon annual request pursuant to Education Code section 47614. (5 CCR 11969.3)

### **Mediation of Disputes**

If a dispute arises between the district and a charter school pursuant to Education Code 47614 or 5 CCR 11969.1-11969.10 both parties may agree to settle the dispute using mediation. Mediation, if engaged, consists of the following steps

1. If both parties agree to mediation, the initiating party shall select a mediator, subject to the agreement of the responding party. If the parties are unable to agree on a mediator, the initiating party shall request the CDE to appoint a mediator within seven days to assist the parties in resolving the dispute. The mediator shall meet with the parties as quickly as possible.
2. Within seven days of the selection or appointment of the mediator, the party initiating the dispute resolve
  - a. Name, address, and phone numbers of designated representatives of the parties
  - b. A statement of the facts of the dispute, including information regarding the parties' attempts to resolve the dispute
  - c. The specific sections of the statute or regulations that are in dispute
  - d. The specific resolution sought by the initiating party
3. Within seven days of receiving the notice, the responding party shall file a written response.
4. The mediation shall be entirely informal in nature. Each party shall share copies of exhibits upon which its case is based with the other party at least three business days prior to the mediation. The relevant facts shall be elicited in a narrative fashion to the extent possible, rather than through examination and cross-examination of witnesses.
5. Any agreement reached by the parties shall be in writing and shall not set a precedent for any other case.
6. The mediation shall be terminated if the district and the charter school fail to meet within the specified timelines, have not reached an agreement within 15 days from the first meeting held by the mediator, or if the mediator declares an impasse.
7. The costs of the mediation shall be divided equally between the parties and paid promptly.

**DEL MAR UNION SCHOOL DISTRICT**  
**FACILITIES**

**BOARD POLICY 7210: FACILITIES FINANCING**

When it is determined that school facilities must be built or expanded to accommodate a increased or projected increased enrollment, the Governing Board shall consider appropriate methods of financing for the purchase of school sites and the construction of buildings. In addition, financing may be needed when safety considerations and educational program improvements require the replacement, reconstruction or modernization of existing facilities.

The Superintendent or designee shall research funding alternatives and recommend to the Board the method that would best serve district needs as identified in the district's master plan for school facilities.

These funding alternatives may include, but not be limited to:

1. Levying developer fees pursuant to Education Code 17620 and Government Code 65995-65998
2. Forming a community facilities district pursuant to Government Code 53311-53368.3, the Mello-Roos Community Facilities Act
3. Forming a school facilities improvement district pursuant to Education Code 15300-15425
4. Issuing voter-approved general obligation bonds
5. Imposing a qualified parcel tax pursuant to Government Code 50079
6. Using lease revenues for capital outlay purposes from surplus school property

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**Legal Reference:**

EDUCATION CODE

15100-17059.2 School bonds, especially:  
15122.5 Ballot statement  
15300-15425 School facilities improvement districts  
17000-17059.2 State School Building Lease-Purchase Law of 1976  
17060-17066 Joint venture school facilities construction projects  
17070.10-17076.10 Leroy F. Greene School Facilities Act of 1998  
17085-17095 State Relocatable Classroom Law of 1979  
17582 District deferred maintenance fund  
17620-17626 Levies against development projects by school districts especially:  
17621 Procedures for levying fees

GOVERNMENT CODE

6061 One time notice  
6066 Two weeks' notice  
50075-50077 Voter-approved special taxes  
50079 School districts; qualified special taxes  
53175-53187 Integrated Financing District Act  
53311-53368.3 Mello-Roos Community Facilities Act of 1982  
53753 Assessment notice and hearing requirements  
53753.5 Exemptions  
54954.1 Mailed notice to property owners  
54954.6 New or increased tax or assessment; public meetings and hearings; notice  
65864-65867 Development agreements  
65970-65980.1 School facilities development project  
65995-65998 Payment of fees against a development project  
66000-66008 Fees for development projects  
66016-66018.5 Development project fees  
66020-66025 Protests and audits

HEALTH AND SAFETY CODE

33445.5 Overcrowding of schools resulting from redevelopment  
33446 School construction by redevelopment agency

CALIFORNIA CONSTITUTION

Article 13D, Sections 1-6 Assessment and property related fee reform

UNCODIFIED STATUTES

17696-17696.98 Greene-Hughes School Building Lease-Purchase Bond Law of 1986

CODE OF REGULATIONS, TITLE 2

1859-1859.106 School facility program

*Legal Reference: (continued)*

COURT DECISIONS

Loyola Marymount University v. Los Angeles Unified School District (1996) 45 Cal.App.4th 1256  
Ehrlich v. City of Culver City (1996) 12 Cal.4th 854  
Dolan v. City of Tigard (1994) 114 S.Ct. 2309  
Canyon North Co. v. Conejo Valley Unified School District (1993) 19 Cal.App.4th 243, 23 Cal.Rptr.2d 495  
Garlic Development Co. v. Hayward Unified School District (1992) 3 Cal.App.4th 320, 4 Cal.Rptr.2d 897  
Nollan v. California Coastal Commission (1987) 107 S.Ct. 3141

ATTORNEY GENERAL OPINIONS

79 Ops.Cal.Atty.Gen. 149 (1996)

*Management Resources:*

WEB SITES

Department of General Services, Office of Public School Construction:  
<http://www.dgs.ca.gov/opsc/>

**DEL MAR UNION SCHOOL DISTRICT**  
**FACILITIES**

**BOARD POLICY 7211: DEVELOPER FEES**

In order to finance the construction or reconstruction of school facilities needed to accommodate students coming from new development, the Governing Board may establish, levy and collect developer fees on residential, commercial and industrial construction within the district, subject to restrictions specified by law and administrative regulation.

Appeals Process for Protests by Developers

The Superintendent or designee shall establish an appeals process for the handling of protests by developers. (Education Code 17621)

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***Legal Reference:***

**EDUCATION CODE**

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

17582 *District deferred maintenance fund*

17620-17626 *Levies against development projects by school districts*

**GOVERNMENT CODE**

6061 *One time notice*

6066 *Two weeks' notice*

65352.2 *Level 2 funding notification requirement*

65864-65869.5 *Development agreements*

65995-65998 *Payment of fees against a development project*

66000-66008 *Fees for development projects*

66016-66018.5 *Development project fees*

66020-66025 *Protests and audits*

**CODE OF REGULATIONS, TITLE 2**

1859-1859.106 *School facility program*

**COURT DECISIONS**

*Dolan v. City of Tigard* (1994) 114 S.Ct. 2309

***Management Resources:***

**WEB SITES**

*Department of General Services, Office of Public School Construction:*

*<http://www.dgs.ca.gov/opsc/>*

**DEL MAR UNION SCHOOL DISTRICT**  
**FACILITIES**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 7211:**  
**DEVELOPER FEES**

***Level 1 Funding: Residential, Commercial and Industrial Construction***

Before taking action to establish, increase or impose developer fees, the Governing Board shall conduct a fee justification study which: (Government Code 66001)

1. Identifies the purpose of the fee and the use to which the fee will be put
2. Determines a reasonable relationship between the fee's use and the type of development project for which the fee is imposed
3. Determines a reasonable relationship between the need for the public facility and the type of development project for which the fee is imposed
4. Determines a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributed to the development for which the fee is imposed

***Level 1 Funding: Notice and Hearing Requirements***

Before levying developer fees or prior to increasing an existing fee, the Board shall schedule a public hearing. The Superintendent or designee shall mail notice of the time and place of the meeting, including a general explanation of the matter to be considered and a statement that the required data are available, at least 14 days prior to the meeting to any interested party who has requested such information. Any written request for mailed notices shall be valid for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for mailed notices shall be filed on or before April 1 of each year. The district may charge a fee reasonably related to the cost of providing these materials. (Government Code 66016)

Information on the anticipated amount of fees, other available funds and funding sources, and the estimated cost of planning, land acquisition and school construction shall be made available to the public at least 10 days before the hearing. (Government Code 66016)

At the hearing, the Board shall adopt a resolution for the levying of the developer fees. (Government Code 66016) The resolution shall set forth:

1. The purpose of the fee and the public improvement(s) that the fee will be used to finance (Government Code 66006)

2. The Board's findings of reasonable relationship which justify the fees pursuant to Government Code 66001
3. The district's determination of either of the following conditions, which allow collection of the fees at the time when building permits are issued: (Government Code 66007)
  - a. That the fees are to reimburse the district for previous expenditures
  - b. That the fees shall be collected for public improvements or facilities for which an account has been established, funds have been appropriated and the district has adopted a proposed construction schedule or plan

***Level 2 Funding: Residential Construction***

In order to impose residential construction fees within the limits of Government Code 65995.5, the Board shall: (Government Code 65995.5)

1. Make a timely application to the State Allocation Board for new construction funding for which it is eligible
2. Conduct and adopt a school facility needs analysis pursuant to Government Code 65995.6
3. Satisfy at least two of the requirements set forth in Government Code 65995.5(b)(3)(A-D) (Government Code 65995.5)

***Level 2 Funding: Notice and Hearing Requirements***

At least 45 days prior to completion of the school facility needs analysis, the Board shall notify and provide copies of the analysis to the planning commission or agency of the city or county with land use jurisdiction within the district. Upon request of either party, the Board and city or county shall meet within 15 days following notification. (Government Code 65352.2)

The Board shall adopt the school facility needs analysis by resolution at a public hearing. (Government Code 65995.6)

This analysis may not be adopted until the analysis, in its final form, has been made available to the public for a period of not less than 30 days. Prior to its adoption, the public shall have the opportunity to review and comment on the analysis and the Board shall respond to written comments it receives regarding the analysis. (Government Code 65995.6)

During the period of public review, the analysis shall be provided to the local agency responsible for land use planning for its review and comment. (Government Code 65995.6)

No less than 30 days prior to the hearing, notice of the time and place of the hearing, including the location and procedure for viewing or requesting a copy of the proposed analysis, shall be published in at least one newspaper of general circulation within the jurisdiction of the district. If there is no paper of general circulation, the notice shall be posted in at least three conspicuous places within the district's jurisdiction not less than 30 days prior to the hearing. (Government Code 65995.6)

In addition, the Superintendent or designee shall mail a copy of the needs analysis not less than 30 days prior to the hearing to any person who has made a written request if the written request was made 45 days prior to the hearing. The district may charge a fee reasonably related to the cost of providing these materials. (Government Code 65995.6)

The school facility needs analysis may be revised at any time. The revision is subject to the same conditions and requirements applicable to the adoption of the analysis. The existing school building capacity shall be recalculated as part of any revision to the needs analysis. (Government Code 65995.6)

The fees authorized by Government Code 65995.6 and Government Code 65995.7 shall be adopted by resolution as part of the adoption or revision of the school facilities needs analysis. The fees shall take effect immediately upon adoption of the resolution and may not be effective for more than one year. (Government Code 65995.6)

***Level 3 Funding: Residential Construction***

When Level 3 fees are authorized by law and the district qualifies for Level 2 funding pursuant to Government Code 65995.5, the Board may assess a fee on residential construction pursuant to the requirements of Government Code 65995.7.

***Level 3 Funding: Notice and Hearing Requirements***

Pursuant to Government Code 65995.7, the notice and hearing requirements, resolution requirement, and term of effectiveness for Level 3 funding shall be the same as the requirements for Level 2 funding as specified above.

***All Developer Funding Fees: Additional Requirements***

The district shall send a copy of any resolution adopting or increasing developer fees to the city and county, accompanied by all relevant supporting documentation and a map indicating the boundaries of the area subject to the fee. (Education Code 17621)

In cooperation with local governmental agencies issuing building permits, the Superintendent or designee shall establish a means by which all of the following shall be accomplished:

1. The project applicant shall receive a written statement of the amount of the fees and notification that the 90-day approval period during which the applicant may protest has begun. (Government Code 66020)
2. The Superintendent or designee shall receive and retain acknowledgment that the above notification was received.
3. Before a permit is issued and upon the payment of the applicable fee or requirement, the Board shall immediately certify that the fee has been paid or that the district has determined that the fee does not apply to the development project. (Education Code 17620)

Developer fees shall be deposited, invested, accounted for and expended pursuant to Government Code 66006. Developer fees shall be deposited in a separate capital facilities account, except for temporary investments allowed by law, and shall be used only for the purpose for which they were collected. Interest income earned by the capital facilities account shall also be deposited in that account and used only for the purpose for which the fee was originally collected. (Government Code 66006)

For each separate account so established, the Superintendent or designee shall, within 180 days after the last day of each fiscal year, make available to the public the following information for the fiscal year: (Government Code 66006)

1. A brief description of the type of fee in the account or fund
2. The amount of the fee
3. The beginning and ending balance of the account or fund
4. The amount of the fees collected and the interest earned
5. An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees
6. An identification of an approximate date by which the construction of the public improvement will commence if the district determines that sufficient funds have been collected to complete financing on an incomplete public improvement
7. A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and, in the case of an interfund loan, the date on which the loan will be repaid, and the rate of interest that the account or fund will receive on the loan

8. The amount of refunds made pursuant to Government Code 66001(e) and any allocations made pursuant to Government Code 66001(f)

The Board shall review the above information at the first regularly scheduled public Board meeting, which occurs 15 days after the information is made available to the public. Fifteen-day prior notice of this meeting shall be mailed to any parties filing a written request pursuant to Government Code 66006. (Government Code 66006)

In addition to discharging its public disclosure duties regarding the levying of developer fees, the Board shall, for the fifth fiscal year after the first deposit into the account or fund and every five years thereafter, make all of the following findings with respect to the portion of the account or fund that remains unexpended, whether committed or uncommitted: (Government Code 66001)

1. Identify the purpose to which the fee is to be put
2. Demonstrate a reasonable relationship between the fee and the purpose for which it is charged
3. Identify all sources and amounts of funding anticipated to complete financing in incomplete improvements originally identified
4. Designate the approximate dates on which the funding referred to in item #3 is expected to be deposited into the appropriate account or fund

When sufficient funds have been collected to complete the financing of public improvements but such improvements remain incomplete, the district shall, within 180 days of the date that a determination of sufficient funding was made, either identify an approximate date by which construction will begin or refund the unexpended revenues in accordance with Government Code 66001. (Government Code 66001)

#### ***Appeals Process for Protests by Developers***

Developers of residential, commercial and industrial projects who claim that the developer fee has been inappropriately levied shall use the following procedures: (Government Code 66020)

1. The developer shall tender any required payment in full or provide satisfactory evidence of arrangements to pay the fee when due or ensure performance of the conditions necessary to meet the requirements of the imposition.
2. The developer shall serve written notice to the Board. This notice shall include:
  - a. A statement that the required payment is tendered or will be tendered when due, or that any conditions which have been imposed are provided for or satisfied, under protest

- b. A statement informing the Board of the factual elements of the dispute and the legal theory forming the basis for the protest
3. The protest shall be filed at the time of approval or conditional approval of the development or within 90 days after the date of the imposition of the fees.

At the time of the imposition of the fee, the Superintendent or designee shall provide each project applicant written notice that the 90-day period in which the applicant may initiate a protest has begun. The developer may file an action to attack, review, set aside, void or annul the imposition of the fees imposed on the development project within 180 days of delivery of the notice. (Government Code 66020)

**DEL MAR UNION SCHOOL DISTRICT**  
**FACILITIES**

**BOARD POLICY 7212: MELLO ROOS DISTRICTS**

In order to form a Mello-Roos community facilities district which may issue bonds and/or levy a special tax to finance school construction, the Superintendent or designee shall recommend to the Governing Board related goals and policies addressing the following: (Government Code 53312.7)

1. The priority that various facilities shall have for financing through the Mello-Roos district
2. The credit quality to be required of bond issues and criteria to be used in evaluating the credit quality
3. Steps by which prospective property purchasers shall be fully informed about their related taxpaying obligations
4. Criteria for evaluating the equity of tax allocation formulas
5. Maximum tax burdens to be levied against any parcel
6. Definitions, standards and assumptions to be used in appraisals required by Government Code 53345.8

The proceeds of any bonds, notes or other securities issued pursuant to the Mello-Roos Community Facilities Act shall be deposited or invested in accordance with Government Code 53356.03.

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***Legal Reference:***

**EDUCATION CODE**

*15300-15425 School facilities improvement districts*

*17060-17066 Joint venture school facilities construction projects*

**GOVERNMENT CODE**

*53311-53368.3 Mello-Roos Community Facilities Act of 1982*

*53753 Assessment notice and hearing requirements*

*53753.5 Exemptions*

*54954.1 Mailed notice to property owners*

*54954.6 New or increased tax or assessment; public meetings and hearings; notice*

*65970-65981 School facilities development project*

*65995 Levies against development projects*

**CODE OF REGULATIONS, TITLE 2**

*1859-1859.106 School facility program*

***Management Resources:***

**WEB SITES**

*Department of General Services, Office of Public School Construction:*

*<http://www.dgs.ca.gov/opsc>*

*Board Policy 7212 - 1<sup>st</sup> Reading for the Board of Trustees: November 16, 2005*

*Approved by the Board of Trustees: December 14, 2005*

**DEL MAR UNION SCHOOL DISTRICT**  
**FACILITIES**

**BOARD POLICY 7213: SCHOOL FACILITIES IMPROVEMENT DISTRICTS**

As part of the determination that it is necessary and in the best interest of the district to form a school facilities improvement district to finance any or all of the improvements set forth in Education Code 15302, the Governing Board shall find that the overall cost of financing the bonds issued would be less than the overall cost of other school financing options available to the district including, but not limited to, issuing bonds pursuant to the Mello-Roos Community Facilities Act. (Education Code 15301)

The Board shall also define the boundaries of the school facilities improvement district to include any portion of territory within the jurisdiction of the school district. However, these boundaries may not include all or a portion of the territory of the community facilities district formed pursuant to the Mello-Roos Community Act. (Education Code 15301)

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**Legal Reference:**

**EDUCATION CODE**

15300-15425 School facilities improvement districts

**GOVERNMENT CODE**

6061 One time notice

6066 Two weeks' notice

50075-50077 Voter-approved special taxes

50079 School districts; qualified special taxes

53175-53187 Integrated Financing District Act

53753 Assessment notice and hearing requirements

53753.5 Exemptions

54954.1 Mailed notice to property owners

54954.6 New or increased tax or assessment; public meetings and hearings; notice

**Management Resources:**

**WEB SITES**

Department of General Services, Office of Public School Construction:

<http://www.dgs.ca.gov/opsc/>

**DEL MAR UNION SCHOOL DISTRICT**  
**FACILITIES**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 7213:**  
**SCHOOL FACILITIES IMPROVEMENT DISTRICTS**

Upon determining that a school facilities improvement district is necessary, the Governing Board shall adopt a resolution of intention that states all of the following: (Education Code 15320)

1. The Board's intention to form the proposed school facilities improvement district
2. The purpose for which the proposed district is to be formed, consistent with the requirements of Education Code 15302
3. The estimated cost of the school facilities improvement project
4. That any taxes levied for financing general obligation bonds issued to finance the project shall be levied exclusively upon the lands in the proposed school facilities improvement district
5. That a map showing the exterior boundaries of the proposed district is on file with the Board and available for public inspection, and that these boundaries meet the requirements of Education Code 15301
6. The time and place for a Board hearing on the formation of the proposed district
7. That any interested persons, including all persons owning lands in the district or in the proposed school facilities improvement district, may appear and be heard at the above hearing

Notice of the hearing shall be given by publishing a copy of the resolution of intention in a newspaper of general circulation pursuant to Government Code 6066, starting at least 14 days before the hearing. The resolution shall also be posted in three public places within the proposed school facilities improvement district for at least 14 days before the hearing. (Education Code 15321)

The Board shall hold the above hearing as specified in its resolution and may, at the hearing, adopt a resolution proposing modifications of its above-stated purposes consistent with Education Code 15302. A resolution proposing modification shall describe the proposed modifications, state any change in the estimated cost of carrying out the purpose, and fix a time and place for a related Board hearing. (Education Code 15322, 15323)

At least 14 days before the hearing to consider its resolution proposing modification, the Board shall publish the resolution one time in the same newspaper in which the resolution of intention was published. (Education Code 15324)

When hearings are concluded, the Board may, by resolution, order the formation of a school facilities improvement district. The resolution shall state the estimated cost of carrying out described purposes and shall number and designate the improvement district as specified in Education Code 15326. (Education Code 15326)

The Superintendent or designee shall establish procedures consistent with Education Code 15330-15425 governing the financing of bonds, bond elections and the issuance and sale of bonds.

**DEL MAR UNION SCHOOL DISTRICT**  
**FACILITIES**

**BOARD POLICY 7214: GENERAL OBLIGATION BONDS**

The Governing Board desires to provide adequate facilities in order to enhance curriculum and to help the district achieve its vision for educating district students. To that end, the Board may order an election on the question of whether bonds shall be issued for school facilities when in the Board's judgment it is advisable and in the best interest of district students.

The Board shall determine the appropriate size of the bond in accordance with law.

***Bonds Requiring 55% Approval by Local Voters***

The Board may decide to pursue the authorization and issuance of bonds by approval of 55% majority of the voters pursuant to Article 13A, Section 1(b)(3) and Article 16, Section 18(b) of the California Constitution. If two-thirds of the Board agree to such an election, the Board shall vote to adopt a resolution to incur bonded indebtedness if approved by a 55% majority of the voters. (Education Code 15266)

The bond election may only be ordered at a primary or general election, a regularly scheduled local election or a statewide special election. (Education Code 15266)

Bonded indebtedness incurred by the district shall be used only 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 for school facilities. (California Constitution Article 13A, Section 1(b)(3) and 1(b)(3)(A))

The proposition approved by the voters shall include the following accountability requirements: (California Constitution Article 13A, Section 1(b)(3))

1. A requirement that proceeds from the sale of the bonds be used only for the purposes specified above and not for any other purposes including teacher and administrative salaries and other school operating expenses
2. A list of specific school facility projects to be funded and certification that the Board has evaluated safety, class size reduction and information technology needs in developing that list
3. A requirement that the Board conduct an annual, independent performance audit to ensure that the funds have been expended only on the specific projects listed

4. A requirement that the Board conduct an annual, independent financial audit of the proceeds from the sale of the bonds until all of those proceeds have been expended for the school facilities projects

***Bonds Requiring 66.67% Approval by Local Voters***

Bonds shall be sold for the purpose of raising money for the following purposes:  
(Education Code 15100)

1. Purchasing school lots
2. Building or purchasing school buildings
3. Making of alterations or additions to school building(s) other than as may be necessary for current maintenance, operation or repairs
4. Repairing, restoring or rebuilding of any school building damaged, injured or destroyed by fire or other public calamity
5. Supplying of school buildings and grounds with furniture, equipment or necessary apparatus of a permanent nature
6. Permanent improvement of school grounds
7. Refunding of any outstanding valid indebtedness of the district, evidenced by bonds or of state school building aid loans
8. Carrying out of sewer or drain projects or purposes authorized in Education Code 17577
9. Purchase of school buses with a useful life of at least 20 years
10. Demolition or razing of any school building with the intent to replace it with another school building, whether in the same location or in any other location

Except for refunding any outstanding indebtedness, any of the purposes listed above may be united and voted upon as a single proposition by order of the Board and entered into the minutes. (Education Code 15100)

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**Legal Reference:**

EDUCATION CODE

15100-15254 Bonds for school districts and community college districts

15264-15288 Strict Accountability in Local School Construction Bonds Act of 2000

17577 Sewers and drains

47614 Charter school facilities

ELECTIONS CODE

324 General election

328 Local election

341 Primary election

348 Regular election

356 Special election

357 Statewide election

1302 School district election

GOVERNMENT CODE

1090-1098 Prohibitions applicable to specified officers

1125-1129 Incompatible activities

53580-53595.55 Bonds

CALIFORNIA CONSTITUTION

Article 13A, Section 1 Tax limitation

Article 16, Section 18 Debt limit

**Management Resources:**

WEB SITES

CSBA: <http://www.csba.org>

CDE: <http://www.cde.ca.gov>

Better Schools for CA: <http://www.betterschoolsforca.org>

**DEL MAR UNION SCHOOL DISTRICT**  
**FACILITIES**

**ADMINISTRATIVE REGULATION TO BOARD POLICY 7214:**  
**GENERAL OBLIGATION BONDS**

***Election Notice***

The Superintendent or designee shall ensure that election notice and ballot requirements are satisfied in accordance with law.

***Certification of Results***

If it appears that the appropriate majority of the voters are in favor of issuing the bonds, the Governing Board shall cause an entry of that fact in the minutes. The Board shall then certify to the board of supervisors of the county whose superintendent of schools has jurisdiction over the district all proceedings had in the premises. (Education Code 15124, 15274)

***Resolution Requesting Sale of Bonds***

Following passage of the bond measure, the Board shall pass a resolution to the county board of supervisors to issue the sale of the bonds in accordance with law. (Education Code 15140)

***Citizens Oversight Committee***

If a district general obligation bond requiring a 55% majority is approved by the voters, the Board shall appoint an independent citizens advisory oversight committee. This committee shall be appointed within 60 days of the date that the Board enter the election results in its minutes pursuant to Education Code 15274. (Education Code 15278)

The citizens oversight committee shall consist of at least seven members including but not limited to: (Education Code 15282)

1. One member active in a business organization representing the business community located within the district
2. One member active in a senior citizens organization
3. One member active in a bona fide taxpayers' organization
4. One member who is a parent/guardian of a child enrolled in the district

5. One member who is a parent/guardian of a child enrolled in the district and is active in a parent-teacher organization, such as the Parent Teacher Association or school site council

No employee, official, vendor, contractor or consultant of the district shall be appointed to the citizens oversight committee. (Education Code 15282)

Members of the citizens oversight committee shall serve for a term of two years without compensation and for no more than two consecutive terms. (Education Code 15282)

The purpose of the citizens oversight committee shall be to inform the public concerning the expenditure of bond revenues. The committee shall actively review and report on the proper expenditure of taxpayers' money for school construction and shall convene to provide oversight for, but not limited to, the following: (Education Code 15278)

1. Ensuring that bond revenues are expended only for the purposes described in Article 13A, Section 1(b)(3) of the California Constitution including 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 for school facilities
2. Ensuring that, as prohibited by Article 13A, Section 1(b)(3)(A) of the California Constitution, no funds are used for any teacher and administrative salaries and other school operating expenses

In furtherance of its purpose, the committee may engage in any of the following activities: (Education Code 15278)

1. Receiving and reviewing copies of the annual, independent performance audit required by Article 13A, Section 1(b)(3)(C) of the California Constitution
2. Receiving and reviewing copies of the annual, independent financial audit required by Article 13A, Section 1(b)(3)(D) of the California Constitution
3. Inspecting school facilities and grounds to ensure that bond revenues are expended in compliance with the requirements Article 13(A), Section 1(b)(3) of the California Constitution
4. Receiving and reviewing copies of any deferred maintenance proposals or plans developed by the district, including any reports required by Education Code 17584.1
5. Reviewing efforts by the district to maximize bond revenues by implementing cost-saving measures including, but not limited to, the following:
  - a. Mechanisms designed to reduce the costs of professional fees

- b. Mechanisms designed to reduce the costs of site preparation
- c. Recommendations regarding the joint use of core facilities
- d. Mechanisms designed to reduce costs by incorporating efficiencies in school site design
- e. Recommendations regarding the use of cost-effective and efficient reusable facility plans

The Board shall, without expending bond funds, provide the citizens oversight committee with any necessary technical assistance and shall provide administrative assistance in furtherance of its purpose and sufficient resources to publicize the committee's conclusions. (Education Code 15280)

All oversight committee proceedings shall be open to the public and noticed in the same manner as proceedings of the Board. (Education Code 15280)

The oversight committee shall issue regular reports, at least once a year, on the results of its activities. Minutes of the proceedings and all documents received and reports issued shall be a matter of public record and shall be made available on the district's Internet web site. (Education Code 15280)

Members of the oversight committee shall be subject to prohibitions regarding incompatibility of office pursuant to Government Code 1125-1129 and financial interest in contracts pursuant to Government Code 1090-1098. (Education Code 15282)

### ***Reports***

Within 30 days after the end of each fiscal year, the Board shall submit to the County Superintendent of Schools a report concerning any bond election(s) containing the following information: (Education Code 15111)

1. The total amount of the bond issue, bonded indebtedness or other indebtedness involved
2. The percentage of registered electors who voted at the election
3. The results of the election, with the percentage of votes cast for and against the proposition

**DEL MAR UNION SCHOOL DISTRICT**  
**FACILITIES**

**BOARD POLICY 7310: NAMING OF FACILITY**

The Governing Board shall name schools or individual buildings in recognition of:

1. Individuals, living or deceased, who have made outstanding contributions to the county or community
2. Individuals, living or deceased, who have made contributions of state, national or worldwide significance
3. The geographic area in which the school or building is located

The Board delegates to the Superintendent responsibility for developing a process to ensure community participation in the naming of district facilities. The Board will ultimately be responsible for naming the district schools, individual buildings and athletic facilities .

The renaming of existing schools or major facilities shall occur only under extraordinary circumstances and after thorough study.

***Memorials***

Upon request, the Board shall consider naming buildings, parts of buildings, or athletic fields in honor of the contributions of students, staff members, and community members who have been deceased for at least one year.

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***Legal Reference:***

**EDUCATION CODE**

*35160 Authority of governing boards*