

California Department of Education

Executive Office

SBE-005 (REV. 1/2018)

General Waiver

# California State Board of Education November 2023 AgendaItem #W-05

## Subject

Request by **three local educational agencies** to waive California *Education Code (EC)* sections specific to statutory provisions for the sale or lease of surplus property.

## Waiver Numbers

* Centralia Elementary School District 5-7-2023
* Oceanside Unified School District 3-6-2023
* Pleasanton Unified School District 3-7-2023

## Type of Action

Action, Consent

## Summary of the Issues

The Centralia Elementary School District (ESD) is requesting to waive all of California *EC* sections 17473 and 17474, and portions of sections 17455, 17466, 17468, 17470, 17472, and 17475, which will allow the district to lease a piece of property in a manner that best serves its schools and community, through the Request for Proposal (RFP) process.

The Oceanside Unified School District (USD) is requesting to waive all of California *EC* sections 17472, 17473 and 17474, and portions of sections 17455, 17466, 17468, 17469, 17470, and 17475, which will allow the district to sell a piece of property, in a manner that best serves its schools and community, through the RFP process.

The Pleasanton Unified School District is requesting to waive all of California *EC* sections 17472 and 17474, and portions of sections 17455, 17466, 17469, 17472, and 17475, which will allow the district to sell or lease a piece of property in a manner that best serves its schools and community, through the RFP process .

## Authority for Waiver

California *EC* Section 33050

## Recommendation

* Approval: No
* Approval with conditions: Yes
* Denial: No

The California Department of Education (CDE) recommends approval with the following conditions: that the proposal each district’s respective governing board determines to be the most desirable shall be selected within 30 to 60 days of the public meeting where the proposal was received, and that the reasons for that determination be discussed in public session and included in the minutes of the meeting.

## Summary of Key Issues

Under provisions of *EC* Section 33050, the districts are requesting that specific portions of the *EC* relating to the sale or lease of surplus property be waived.

### Centralia Elementary School District

Centralia ESD requests that the specified *EC* sections be waived in order to allow the district to maximize the return on the lease of a 16.71 acre site located at 7300 La Palma Avenue, Buena Park, CA 90620, and known generally as the “Walter Knott Education Center,” through an RFP rather than a public bid process. The property previously housed Walter Knott School, which was closed in 2010. Following the closure, the district continued to use the property for administration offices, Board meetings, childcare, testing space, and overflow warehouse storage. While the property remains in use for these purposes, the district has declared the property surplus, as additional space is available to relocate these functions.

The site has two additional occupants, Apple Tree Early Intervention Center, which offers occupational therapy and speech services, and Catalyst Family Inc., which offers preschool services. These occupants provide $120,000 annually in rental income, while maintenance costs for the site are approximately $300,000 annually, leaving a deficit of $180,000. The school district has reached out to offer assistance with relocation to both occupants. Neither occupant has expressed concerns about relocating.

Permitting the district to utilize the RFP process for leasing the facility would allow greater flexibility to find an arrangement that provides the most benefit possible to the district. One such possibility that has been considered is partnering with the city on a recreational facility of some type. No objections were raised to the waiver or the declaration of the property as surplus, either at the board meeting or any of the surplus property advisory committee meetings.

### Oceanside USD

Oceanside USD requests that the specified *EC* sections be waived in order to allow the district to maximize the return on the sale of a piece of real property located at 333 Garrison Street, Oceanside, CA 92054, which formally housed the Garrison Elementary School site, through an RFP rather than a public bid process. Surplus school buildings remain located on the site. Currently, the property is not being used by the district, there are no community groups authorized to use the site, and the district has determined it has no anticipated future use for the property, which it has declared surplus.

The State Board of Education (SBE) previously authorized a waiver allowing the district to employ the RFP process. Since approval of the previous waiver, the district sold 3 acres of the property to the City of Oceanside after the city exercised a statutory offer right. The district then solicited competitive offers from interested buyers for the remaining 8.26 acres of the property. After complying will all conditions provided in the original waiver, the district selected the offer that was in its best interest at a public meeting, noting the reasons therefore in the minutes of that meeting. Since that time, the district has executed a purchase and sale agreement with that selected buyer. Although significant progress has been made, given the complexity of the sale, including a two-year escrow period, the district is requesting additional time to finalize its sale of the property. The renewal would keep an active waiver in place through the anticipated closing date, allowing Oceanside USD to complete the sale process and maximize the value of the property.

### Pleasanton USD

Pleasanton USD requests that the specified *EC* sections be waived in order to allow the district to maximize the return on the sale of a piece of real property located at Vineyard Avenue between Thiessen Street and Manoir Lane, County of Alameda, California, identified by its Assessor’s Parcel Number (APN) 946-4619-1. The district has determined that this property, which is currently undeveloped and not in use for any purpose.

The district would like to use the RFP process in order to entertain proposals that provide the greatest overall benefit for the district, while enhancing the surrounding neighborhood. In addition, they have been advised by local real estate experts that an RFP process is likely to produce a greater overall number of proposals than the statutory bid process, which will increase the likelihood of maximizing the value of the property.

### Demographic Information

Centralia Elementary School District is a suburban school district in the city of Buena Park, in Orange County. It has a population of 4,129 students.

Oceanside USD is a suburban district located in the city of Oceanside, in San Diego County. It has a population of 15,971 students.

Pleasanton USD is an urban district located in the city of Pleasanton, in Alameda County. It has a population of 13,860 students.

**Because these are general waivers, if the SBE decides to deny the waivers, it must cite one of the seven reasons in *EC* Section 33051(a), available on the California Legislation Information Web page at** <https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC&sectionNum=33051.>

## Summary of Previous State Board of Education Discussion and Action

The SBE has approved all previous waivers regarding the bidding process and the sale or lease of surplus property. The districts are requesting to waive the same or similar provisions for the sale or lease of surplus property.

## Fiscal Analysis

The flexibility in property disposition requested herein will allow the districts to maximize value from the saleor lease of the properties.

The districts have certified that the sites have been owned for more than 10 years and therehave been no improvements funded by monies from the State School Facilities Program within the last 10 years. Therefore, pursuant to *EC* Section 17462.3, financial reimbursement is not due to the State Allocation Board.

## Attachments

* **Attachment 1:** Summary Table (2 pages)
* **Attachment 2:** Centralia Elementary School District General Waiver Request 5-7-2023 (5 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 3:** Oceanside Unified School District General Waiver Request 3-6-2023 (6 pages). (Original waiver request is signed and on file in the Waiver Office.)
* **Attachment 4:** Pleasanton Unified School District General Waiver Request 3-7-2023 (3 pages). (Original waiver request is signed and on file in the Waiver Office.)

# Attachment 1: Summary Table

California *EC* Section 17455 et seq.

| **Waiver Number** | **District** | **Properties** | **Period of Request** | **Local Board Approval Date** | **Public Hearing Date** | **Bargaining Unit Representatives** | **Advisory Committee Consulted** |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 5-7-2022 | Centralia Elementary School District | 7300 La Palma Avenue, Buena Park, CA 90620 | **Requested:**July 31, 2023 toJuly 31, 2025**Recommended:** July 31, 2023 toJuly 31, 2025 | 7/14/2023 | 7/14/2023Public Hearing Advertised: District website, postings on property | California School Employee Association Chapter 136Leticia GutierrezChapter President07/17/2023**Support**Centralia Education AssociationTera FowlerPresident07/17/2023**Support** | Surplus Property Advisory Committee 4/11/2023**No Objections** |
| 3-6-2023 | Oceanside Unified School District | 333 Garrison Street, Oceanside, CA 92054 | **Requested:**January 12, 2024 toJanuary 12, 2026**Recommended:** January 12, 2024 toJanuary 12, 2026 | 6/13/2023 | 6/13/2023Public Hearing Advertised: local newspaper the Daily Transcript  | California School Employees Association Charles JoyPresident05/19/2023**Support**  | Surplus Property Advisory Committee5/19/2023**No Objections** |
|  |  |  |  |  |  | Oceanside Teachers AssociationTiffany OrtegaPresident**Neutral** |  |
| 3-7-2023 | Pleasanton Unified School District | Vineyard Avenue between Thiessen Street and Manoir Lane, APN 946-4619-1 | **Requested:**January 12, 2024 toJanuary 12, 2026**Recommended:** January 12, 2024 toJanuary 12, 2026 | 6/22/2023 | 6/22/2023 Public Hearing Advertised: District website | Association of Pleasanton TeachersCheryl AtkinsPresident**Support**California School Employees Association Chapter 155Laura MartinezPresident**Support** | Surplus Property Advisory Committee 6/14/2023 **No Objections** |

Created by the California Department of Education

November 2023

# Attachment 2: Centralia Elementary School District General Waiver Request 5-7-2023

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 3066472

Waiver Number: 5-7-2023

Active Year: 2023

Date In: 7/31/2023 8:39:59 PM

Local Education Agency: Centralia Elementary

Address: 6625 La Palma Ave.

Buena Park, CA 90740

Start: 7/31/2023

End: 7/31/2025

Waiver Renewal: No

Waiver Topic: Sale or Lease of Surplus Property

Ed Code Title: Lease of Surplus Property

Ed Code Section: 17455, 17466, 17468, 17472, 17473, 17474, 17475

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: *EC* 17455. The governing board of any school district may sell any real property belonging to the school district or may lease for a term not exceeding 99 years, any real property, together with any personal property located thereon, belonging to the school district which is not or will not be needed by the district for school classroom buildings at the time of delivery of title or possession. The sale or lease may be made without first taking a vote of the electors of the district [, and shall be made in the manner provided by this article].

Rationale: The purpose of this request is to allow the District to waive the sealed proposal requirement of the *Education Code* and use an alternative procedure for the lease of the Property. Specifically, the District desires to lease the Property via an alternative “Request for Proposals” (“RFP”) process, in which the District seeks proposals and negotiates with selected proposers to enter into either a lease agreement that provides the most benefit to the District.

*EC* 17466. Before ordering the sale or lease of any property the governing board, in a regular open meeting, by a two-thirds vote of all its members, shall adopt a resolution, declaring its intention to sell or lease the property, as the case may be. The resolution shall describe the property proposed to be sold or leased in such manner as to identify it [and shall specify the minimum price or rental and the terms upon which it will be sold or leased and the commission, or rate thereof, if any, which the board will pay to a licensed real estate broker out of the minimum price or rental. 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 sealed proposals to purchase or lease will be received and considered].

Rationale: The deleted language indicates that the District must pass a resolution setting a time by which the District will open all sealed bids for the Property. Since the District will not be conducting a bid process, and cannot predict the timing of the RFP process and its subsequent negotiations with proposers, it cannot at the time of adopting the resolution contemplated by Section 17466 know when proposals must be brought back to the governing board for consideration. After passing a resolution that authorizes the District to go forward with the RFP process, the District intends to solicit proposals for the Property and bring proposals to the governing board to consider the approval of an agreement.

*EC* 17468. If, in the discretion of the board, it is advisable to offer to pay a commission to a licensed real estate broker who is instrumental in obtaining any proposal, the commission shall be specified in the resolution. No commission shall be paid unless there is contained in or with the [sealed] proposal [or stated in or with the oral bid,] which is finally accepted, the name of the licensed real estate broker to whom it is to be paid, and the amount or rate thereof. Any commission shall, however, be paid only out of money received by the board from the sale or rental of the real property.

Rationale: The deleted language indicates the District will receive sealed proposals and oral bids for the property at an identified meeting of the District’s governing board. The District is requesting that the requirement of sealed proposals and oral bidding be waived, allowing the District to negotiate the lease of the Property with an interested lessee.

*EC* 17470. (a) The governing board of a school district that intends to sell real property pursuant to this article shall take reasonable steps to ensure that the former owner from whom the district acquired the property receives notice [of the public meeting prescribed by Section 17466,] in writing, by certified mail[, at least 60 days prior to the meeting]. (b) 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.

Rationale: The deleted language indicates the Board would be setting a specific meeting to receive proposals for the Property. Such a requirement, however, will be removed pursuant to the language stricken within *Education Code* Section 17466. As modified, the District would still be required to take reasonable steps to provide notice to the former owner, but the provision of such notice would no longer be tied to an established date to receive proposals.

*EC* 17472. At the time and place fixed in the resolution for the meeting of the governing body, all [sealed] proposals which have been received shall, in public session, [be opened], examined, and declared by the board. [Of the proposals submitted which conform to all terms and conditions specified in the resolution of intention to sell or to lease and which are made by responsible bidders, the proposal is the highest, after deducting therefrom the commission, if any, to be paid a licensed real estate broker in connection therewith, shall be finally accepted, unless a higher oral bid is accepted or the board rejects all bids].

Rationale: The deleted language requires the District to obtain sealed bids and select the highest bid. The District is seeking a waiver to allow it to seek proposals and negotiate with interested parties to select the proposal that best meets the needs of the District. The District may select a proposal that offers a lower price, but agrees to terms that are more beneficial to the District. Therefore, the District seeks to eliminate the language which requires it to enter into an agreement with the highest bidder.

*EC* 17473. WAIVE ENTIRE S*EC*TION [Before accepting any written proposal, the board shall call for oral bids. If, upon the call for oral bidding, any responsible person offers to purchase the property or to lease the property, as the case may be, upon the terms and conditions specified in the resolution, for a price or rental exceeding by at least 5 percent, the highest written proposal, after deducting the commission, if any, to be paid a licensed real estate broker in connection therewith, then the oral bid which is the highest after deducting any commission to be paid a licensed real estate broker, in connection therewith, which is made by a responsible person, shall be finally accepted. Final acceptance shall not be made, however, until the oral bid is reduced to writing and signed by the offeror.]

Rationale: The deleted language relates to the bid process and allows school districts to accept oral bids at the bid hearing. The District will not be accepting bids or conducting a bid hearing, but instead will accept proposals and negotiate with interested parties. Therefore, the District will not need to request or accept oral bids.

*EC* 17474. WAIVE ENTIRE S*EC*TION [In the event of a sale on a higher oral bid to a purchaser procured by a licensed real estate broker, other than the broker who submitted the highest written proposal, and who is qualified as provided in Section 17468 of this code, the board shall allow a commission on the full amount for which the sale is confirmed. One-half of the commission on the amount of the highest written proposal shall be paid to the broker who submitted it, and the balance of the commission on the purchase price to the broker who procured the purchaser to whom the sale was confirmed.]

Rationale: The deleted language relates to the bid process and allows school districts to accept oral bids at the bid hearing. The District will not be accepting bids or conducting a bid hearing, but instead will accept proposals and negotiate with interested parties. Therefore, the District will not need to request or accept oral bids.

*EC* 17475. The final acceptance by the governing body may be made [either at the same session or] at any [adjourned session of the same] meeting [held within the 10 days next following].

Rationale: The deleted language indicates that a school district’s governing board shall accept the highest bid at the bid hearing or within the next 10 days. The District will not conduct a bid hearing, but instead will engage in negotiations with any party submitting a proposal in response to the RFP. Once the negotiations end, and the District identifies the best proposal, the District’s Board will accept the proposal. Therefore, the language in this Section requiring the board to accept a bid on the bid date or within 10 days does not apply to the RFP process.

Outcome Rationale: Centralia Elementary School District (“District”) owns approximately 16.71 acres of real property located at 7300 La Palma Avenue, Buena Park, CA 90620, known generally as the Walter Knott Education Center (the “Property”). The District's governing board declared the Property surplus because it no longer uses or needs the Property (now or at the proposed time of the anticipated lease of the Property).

*Education Code* section 17466 et seq. requires school districts leasing property to conduct a formal bid hearing process in which the school district solicits bids and then enters into a lease agreement with the winning bidder. The District seeks a waiver of certain portions of the procedure set forth in *Education Code* section 17466 et seq. so it can pursue a lease. This RFP process will allow the District to receive offers to lease the Property and then determine which proposer offers the best terms and conditions for the District. The bid auction scenario requires the District to pursue a lease of the Property and then limits the District’s selection to the highest bidder. The District needs the ability to be flexible and work with interested parties to determine whether a lease is in the best interest of the District, and to establish the terms of the lease agreement. A waiver from the surplus property requirements will allow the District to do this. The District will work to develop a strategic plan for advertising and marketing the Property in order to solicit proposals from parties interested in the Property. The District will work closely with legal counsel to develop an RFP seeking proposals for the lease of the Property and develop a process by which the Property leased through a fair and open process.

Student Population: 4129

City Type: Suburban

Public Hearing Date: 7/14/2023

Public Hearing Advertised: Notice of the public hearing was posted at the Property and on the District’s website on 6/2/23

Local Board Approval Date: 7/14/2023

Community Council Reviewed By: Surplus Property Advisory Committee

Community Council Reviewed Date: 4/11/2023

Community Council Objection: No

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Stephen McLoughlin

Position: Attorney

E-mail: stmcloughlin88@hotmail.com

Telephone: 562-653-3821

Bargaining Unit Date: 07/17/2023
Name: California School Employees Association #136
Representative: Leticia Gutierrez
Title: President
Phone: 714-228-3253
Position: Support

Bargaining Unit Date: 07/17/2023
Name: Centralia Education Association
Representative: Tera Fowler
Title: President
Phone: 714-228-3220
Position: Support

# Attachment 3: Oceanside Unified School District General Waiver Request 3-6-2023

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 3773569

Waiver Number: 3-6-2023

Active Year: 2023

Date In: 6/15/2023 2:57:51 PM

Local Education Agency: Oceanside Unified

Address: 2111 Mission Ave.

Oceanside, CA 92058

Start: 1/12/2024

End: 1/12/2026

Waiver Renewal: Yes

Previous Waiver Number: 9-9-2021-W-04

Previous SBE Approval Date: 1/12/2022

Waiver Topic: Sale or Lease of Surplus Property

Ed Code Title: Sale of Surplus Property

Ed Code Section: 17455, 17466, 17468, 17469, 17470, 17472 (all), 17473 (all), 17474 (all), 17475

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: The Oceanside Unified School District desires to waive the following sections and portions of the *Education Code* (“*EC*”). Specifically, the District requests that the language in brackets [] be waived:

*EC* § 17455. The governing board of any school district may sell any real property belonging to the school district or may lease for a term not exceeding 99 years, any real property, together with any personal property located thereon, belonging to the school district which is not or will not be needed by the district for school classroom buildings at the time of delivery of title or possession. The sale or lease may be made without first taking a vote of the electors of the district [, and shall be made in the manner provided by this article].

Rationale: The language indicating that the sale of the property is to be made in the manner provided by this article should be waived, because the District is asking that several provisions of the article be waived and consequently, the sale or lease will not be made in the manner provided in Article 4.

*EC* § 17466. Before ordering the sale or lease of any property the governing board, in a regular open meeting, by a two-thirds vote of all its members, shall adopt a resolution, declaring its intention to sell or lease the property, as the case may be. The resolution shall describe the property proposed to be sold or leased in such manner as to identify it [and shall specify the minimum price or rental and the terms upon which it will be sold or leased] and the commission, or rate thereof, if any, which the board will pay to a licensed real estate broker [out of the minimum price or rental. 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 sealed proposals to purchase or lease will be received and considered].

Rationale: The stricken language to be waived provides for the governing board to state a minimum price and the terms upon which the property will be sold or leased. The stricken language also would require specification of a meeting where proposals would be received and considered. The District is requesting that the original waiver of the requirement to state a minimum price and terms be renewed, because it has already publicized the sale and solicited proposals for the purchase of the Property, and brought proposals to the governing board to consider the approval of a sale. The governing board has selected a proposal and passed a resolution to approve the purchase and sale agreement with the selected buyer, which included the commission rate the Board will pay the broker. The District is currently in escrow with the designated buyer for sale of the property.

*EC* § 17468. If, in the discretion of the board, it is advisable to offer to pay a commission to a licensed real estate broker who is instrumental in obtaining any proposal, the commission shall be specified [in the resolution]. No commission shall be paid unless there is contained in or with the [sealed] proposal [or stated in or with the oral bid], which is finally accepted, the name of the licensed real estate broker to whom it is to be paid, and the amount or rate thereof. Any commission shall, however, be paid only out of money received by the board from the sale or rental of the real property.

Rationale: The stricken language to be waived provides for the District to receive sealed and oral bids to purchase or lease the property at an identified meeting of the District’s governing board. The District is requesting that the requirement of sealed bids and oral bidding to purchase or lease the property be waived, allowing the District to use a proposals process and negotiate the sale or lease of the property with a qualified purchaser. As stated above, after receipt of the original waiver, the District brought proposals to the governing board, and the governing board selected a proposal and passed a resolution to approve the purchase and sale agreement with the selected buyer.

*EC* § 17469. Notice of the adoption of the resolution [and of the time and place of holding the meeting] shall be given by posting copies of the resolution signed by the board or by a majority thereof in three public places in the district [, not less than 15 days before the date of the meeting,] and by publishing the notice not less than once a week for three successive weeks [before the meeting] in a newspaper of general circulation published in the county in which the district or any part thereof is situated, if any such newspaper is published therein.

Rationale: The stricken language to be waived assumes that the Board would be setting a specific meeting to receive proposals for the purchase of the property. Such a requirement, however, will be removed pursuant to the language stricken within *Education Code* Section 17466. As modified, the District would still be required to provide notice of its adoption of a resolution of intent to sell the property, but the posting of that resolution and notice in a newspaper would no longer be tied to an established date to receive proposals. The District has provided notice of its adoption of a resolution of intent to sell the property and passed that resolution of intent to sell the property, in compliance with this Section as modified by the prior waiver.

*EC* § 17470. (a) The governing board of a school district that intends to sell or lease real property pursuant to this article shall take reasonable steps to ensure that the former owner from whom the district acquired the property receives notice [of the public meeting prescribed by Section 17466], in writing, by certified mail, [at least 60 days prior to the meeting].

(b) 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.

Rationale: The stricken language to be waived assumes that the Board would be setting a specific meeting to receive proposals for the purchase or lease of the property. Such a requirement, however, will be removed pursuant to the language stricken within *Education Code* Section 17466. As modified, the District would still be required to take reasonable steps to provide notice to the former owner, but the provision of such notice would no longer be tied to an established date to receive proposals. The District took steps to provide notice to the former owner in compliance with this Section as modified by the prior waiver.

*EC* § 17472. [At the time and place fixed in the resolution for the meeting of the governing body, all sealed proposals which have been received shall, in public session, be opened, examined, and declared by the board. Of the proposals submitted which conform to all terms and conditions specified in the resolution of intention to sell or to lease and which are made by responsible bidders, the proposal which is the highest, after deducting therefrom the commission, if any, to be paid a licensed real estate broker in connection therewith, shall be finally accepted, unless a higher oral bid is accepted or the board rejects all bids].

Rationale: The stricken language to be waived provides for the District to receive and open sealed proposals and oral bids to purchase or lease the property at an identified meeting of the District’s governing board. The District is requesting that the requirement of sealed proposals and oral bidding to purchase or lease the property be waived, allowing the District to use a proposals process and negotiate the sale or lease of the property with a qualified purchaser. This allows the District to receive and consider a number of proposals and maximize the District’s ability to negotiate the most favorable transaction terms. As stated above, after receipt of the original waiver, the District brought proposals to the governing board, and the governing board selected a proposal and passed a resolution to approve the purchase and sale agreement with the selected buyer.

*EC* § 17473. [Before accepting any written proposal, the board shall call for oral bids. If, upon the call for oral bidding, any responsible person offers to purchase the property or to lease the property, as the case may be, upon the terms and conditions specified in the resolution, for a price or rental exceeding by at least 5 percent, the highest written proposal, after deducting the commission, if any, to be paid a licensed real estate broker in connection therewith, then the oral bid which is the highest after deducting any commission to be paid a licensed real estate broker, in connection therewith, which is made by a responsible person, shall be finally accepted. Final acceptance shall not be made, however, until the oral bid is reduced to writing and signed by the offeror.]

Rationale: The entire section is to be waived because the District, in negotiating an agreement to sell or lease the property, will not be accepting oral bids.

*EC* § 17474. [In the event of a sale on a higher oral bid to a purchaser procured by a licensed real estate broker, other than the broker who submitted the highest written proposal, and who is qualified as provided in Section 17468 of this code, the board shall allow a commission on the full amount for which the sale is confirmed. One-half of the commission on the amount of the highest written proposal shall be paid to the broker who submitted it, and the balance of the commission on the purchase price to the broker who procured the purchaser to whom the sale was confirmed.]

Rationale: The entire section is to be waived because the District, in negotiating an agreement to sell or lease the property, will not be accepting oral bids.

*EC* § 17475. The final acceptance by the governing body may be made [either at the same session or at any adjourned session of the same meeting held within the 10 days next following].

Rationale: Modification of the section would remove the requirement that the governing board accept a proposal at the same meeting received, and would instead allow the governing board to consider proposals received and, as desired and appropriate, direct further negotiation, and complete the transaction at the time most beneficial to the District.

Outcome Rationale: The Oceanside Unified School District (“District”) owned the 11+ acre parcel of real property located at 333 Garrison Street, Oceanside, CA 92054, which formally housed the Garrison Elementary School site (“Property”). Surplus school buildings remain located on the Property. Currently, the Property is not being used by the District, there are no community groups authorized to use the Property, and the District does not need use of the Property as it has been declared surplus.

Since approval of the previous waiver, the District sold 3 acres of the Property to the City of Oceanside after the City exercised a statutory offer right. The District then solicited competitive offers from interested buyers for the remaining 8.26 acres of the Property. After complying will all conditions provided in the original waiver, the District selected the offer that was in its best interest at a public meeting, noting the reasons therefore in the minutes of that meeting. Since that time, the District has executed a purchase and sale agreement with that selected buyer. Although significant progress has been made by the District, given the complexity of the sale, including a two-year escrow period, the District requires additional time to finalize the sale of the property. As a result, the District is seeking a renewal of its waiver so that an active waiver will be in place through the anticipated closing date.

The District requests that it be allowed to continue the process of selling the Property in accordance with the original waiver. A renewal of the original waiver of the statutory provisions will allow the District to complete the sale process and maximize the value of the Property.

Student Population: 15971

City Type: Suburban

Public Hearing Date: 6/13/2023

Public Hearing Advertised: Notice of the hearing was published in the Daily Transcript

Local Board Approval Date: 6/13/2023

Community Council Reviewed By: Surplus Property Advisory Committee (7-11)

Community Council Reviewed Date: 5/19/2023

Community Council Objection: No

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Ms. Sarah Polito

Position: Legal Counsel

E-mail: spolito@f3law.com

Telephone: 760-422-9916

Bargaining Unit Date: 05/19/2023
Name: California School Employees Association, Oceanside
Representative: Charles Joy
Title: Interim CSEA President
Phone: 760-901-8823
Position: Support

Bargaining Unit Date: 05/19/2023
Name: Oceanside Teachers Association
Representative: Tiffany Ortega
Title: President
Phone: 760-901-7194
Position: Neutral

# Attachment 4: Oceanside Unified School District General Waiver Request 3-6-2023

**California Department of Education**

**WAIVER SUBMISSION - General**

CD Code: 0175101

Waiver Number: 3-7-2023

Active Year: 2023

Date In: 7/21/2023 3:57:25 PM

Local Education Agency: Pleasanton Unified

Address: 4665 Bernal Ave.

Pleasanton, CA 94566

Start: 7/21/2023

End: 7/20/2025

Waiver Renewal: No

Waiver Topic: Sale or Lease of Surplus Property

Ed Code Title: Sale of Surplus Property

Ed Code Section: 17455, 17466, 17469, 17472-17475

Ed Code Authority: 33050

*Education Code* or *CCR* to Waive: 17455. The governing board of any school district may sell any real property belonging to the school district or may lease for a term not exceeding 99 years, any real property, together with any personal property located thereon, belonging to the school district which is not or will not be needed by the district for school classroom buildings at the time of delivery of title or possession. The sale or lease may be made without first taking a vote of the electors of the district[, and shall be made in the manner provided by this article].

17466. Before ordering the sale or lease of any property the governing board, in a regular open meeting, by a two-thirds votes of all its members, shall adopt a resolution, declaring its intention to sell or lease the property, as the case may be. The resolution shall describe the property proposed to be sold or leased in such manner as to identify it[ and shall specify the minimum price or rental and the terms upon which it will be sold or leased] and the commission, or rate thereof, if any, which the board will pay to a licensed real estate broker [out of the minimum price or rental. 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 sealed proposals to purchase or lease will be received and considered].

17469. Notice of the adoption of the resolution [and of the time and place of holding the meeting] shall be given by posting copies of the resolution signed by the board or by a majority thereof in three public places in the district[, not less than 15 days before the date of the meeting, and by publishing the notice not less than once a week for three successive weeks before the meeting in a newspaper of general circulation published in the county in which the district or any part thereof is situated, if any such newspaper is published therein].

17472. [At the time and place fixed in the resolution for the meeting of the governing body, all sealed] proposals which have been received shall, in public session, be [opened,] examined, and declared by the board. [Of the proposals submitted which conform to all terms and conditions specified in the resolution of intention to sell or to lease and which are made by responsible bidders, the proposal which is the highest, after deducting therefrom the commission, if any, to be paid a licensed real estate broker in connection therewith, shall be finally accepted, unless a higher oral bid is accepted or the board rejects all bids.]

17473. (all)

17474. (all)

17475. The final acceptance by the governing body may be made [either at the same session or] at any [adjourned session of the same] meeting [held within the 10 days next following].

Outcome Rationale: The Pleasanton Unified School District desires to have the requested *Education Code* sections, or portions thereof, waived because the waiver of these sections will allow the District to maximize its return on the sale or lease of the District’s real property that is not needed for school purposes, described as follows:

? Vineyard Avenue between Thiessen Street and Manoir Lane, County of Alameda, California, APN 946-4619-1

The District has determined that this site is no longer needed for school purposes. It is the desire of the District to attract potential lessors or purchasers who will not only pay maximum price for the property but who will also enhance the surrounding neighborhood. Based on past sales and leases of real property in the area and the location of the property, the District anticipates attracting a much greater interest from potential purchasers or lessors through a Request for Proposal process than a bid process.

Student Population: 13860
City Type: Small

Public Hearing Date: 6/22/2023

Public Hearing Advertised: Published a notice on the LEA's website that included the time, date, location, and subject of the hearing.

Local Board Approval Date: 6/22/2023

Community Council Reviewed By: District Advisory "7-11" Committee

Community Council Reviewed Date: 6/14/2023

Community Council Objection: No

Audit Penalty Yes or No: No

Categorical Program Monitoring: No

Submitted by: Mr. Ahmad Sheikholeslami

Position: Assistant Superintendent of Business Services

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Bargaining Unit Date: 06/01/2023
Name: Association of Pleasanton Teachers
Representative: Cheryl Atkins
Title: President
Phone: 925-699-7849
Position: Support

Bargaining Unit Date: 06/09/2023
Name: CSEA Chapter 155
Representative: Laura Martinez
Title: President
Phone: 925-519-4073
Position: Support