

Regulation 7211: Developer Fees

Status: ADOPTED

Original Adopted Date: 09/16/2019 | Last Revised Date: 09/14/2021 | Last Reviewed Date: 09/14/2021

The district shall send a copy of any Governing Board resolution adopting or increasing Level 1, 2, or 3 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 and the Board 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)

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

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

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 which 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)

Policy Reference Disclaimer: These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State References	Description
2 CCR 1859-1859.199	Leroy F. Greene School Facilities Act - https://simbli.eboardsolutions.com/SU/nuvesXH7Af1QqDOmGTa3wA==
Ed. Code 101122	Schedule for allocation of proceeds from sale of bonds
Ed. Code 17070.10-17077.10	Leroy F. Greene School Facilities Act of 1998 - https://simbli.eboardsolutions.com/SU/fu4PsUtUAb4qYYOY9breHg==
Ed. Code 17582	District deferred maintenance fund
Ed. Code 17620-17626	Levies against development projects by school districts
Gov. Code 6061	One time notice
Gov. Code 6066	Two weeks' notice
Gov. Code 65352.2	Communicating and coordinating of school sites
Gov. Code 65864-65869.5	Development agreements
Gov. Code 65995-65998	Developer fees
Gov. Code 66000-66008	Fees for development projects
Gov. Code 66016-66018.5	Development project fees
Gov. Code 66020-66025	Protests and audits
Management Resources References	Description
Court Decision	Dolan v. City of Tigard (1994) 114 S.Ct. 2309
Website	Office of Public School Construction - https://simbli.eboardsolutions.com/SU/UxUcDGuszWNedr16Dp8wuQ==
Cross References	Description

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Relations With Local Agencies -

<https://simbli.eboardsolutions.com/SU/6K9NuTP4lhs50gau3YjUOg==>

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Facilities Financing -

<https://simbli.eboardsolutions.com/SU/YHhzXCK8XmvPv2gchWABzQ==>