

ALBANY UNIFIED SCHOOL DISTRICT
BOARD OF EDUCATION

REGULAR MEETING

Albany Community Center

1249 Marin Avenue
Albany, CA 94706

TUESDAY

September 1, 2009

A G E N D A

- I. OPENING BUSINESS 6:30 p.m.
 A) Call to Order
 B) Roll Call
 C) Identify Closed Session Pursuant to Agenda Section III Below
- II. PUBLIC COMMENT PERIOD FOR CLOSED SESSION ITEMS
General public comment on any Closed Session item will be heard. The Board may limit comments to no more than three (3) minutes.
- III. CLOSED SESSION 6:35 p.m.
 A) With respect to every item of business to be discussed in Closed Session Pursuant to Government Code Section 54956.9: Settlement Employee ID# 1597

Certificated

1. Corrections - none
2. Extra Assignment – none
3. Leave
 - a. Teacher
4. New Hire
 - a. Library Media Specialist
 - b. Substitute Teacher
 - c. Substitute Teacher – Long Term
 - d. Teacher
 - e. TSA
5. Resignation
 - a. Teacher
6. Termination – none
7. Principal
8. Director

Classified

1. Corrections - none
2. New Hire

- a. Clerical Sub
- b. Mental Health Sp
- c. Purchasing/Bus Svcs Tech
- d. Sign Language Interpreter
- e. Yard Aide
- 4. Resignation
 - a. Account Clerk
- 5. Status Change
 - a. Campus Aide
- 6. Termination – none

- B) With respect to every item of business to be discussed in Closed Session Pursuant to Government Code Section 54957.6: CONFERENCE WITH LABOR NEGOTIATOR (Superintendent Marla Stephenson, District Representative), Regarding Negotiations as pertains to:
- 1. California School Employees Association (CSEA)
 - 2. Albany Teachers Association (ATA)
 - 3. SEIU Local 1021

IV. OPEN SESSION

7:30 p.m.

Depending upon completion of Closed Session items, the Board of Education intends to convene to Open Session at 7:30 p.m. to conduct the remainder of its meeting, reserving the right to return to Closed Session at any time.

- A) Reconvene to Open Session
- B) Roll Call
- C) Pledge of Allegiance
- D) Report of Action Taken in Closed Session
- E) Approval of Agenda
- F) Approval of Consent Calendar

(The Consent Calendar includes routine items that may be handled with one action. Board Members may request any item be removed from the Consent Calendar without formal action)

- 1. **Approval of Minutes**
- 2. **Personnel Assignment Order**
 - a) **Certificated Personnel – Public Employee Assignment, Employment, Appointment, Evaluation, Leave Requests:**
 - 1. Corrections - none
 - 2. Extra Assignment – none
 - 3. Leave
 - a. Teacher
 - 4. New Hire
 - a. Library Media Specialist
 - b. Substitute Teacher
 - c. Substitute Teacher – Long Term
 - d. Teacher
 - e. TSA

- 5. Resignation
 - a. Teacher
- 6. Termination – none
- b) **Classified Personnel – Public Employee Assignment, Appointment Employment, Leave Requests:**
 - 1. Corrections – none
 - 2. New Hire
 - a. Clerical Sub
 - b. Mental Health Sp
 - c. Purchasing/Bus Svcs Tech
 - d. Sign Language Interpreter
 - e. Yard Aide
 - 3. Resignation
 - a. Account Clerk
 - 4. Status Change
 - a. Campus Aide
 - 5. Termination – none
- 3. **Curriculum and Instruction**
- 4. **Business and Operations**
 - a) Approve Alameda County School Insurance Group JPA Agreement. Pg. 7
 - b) Approve one contract between Albany Unified School District and the California Department of Education for Child Development Services Pg. 16
 - c) Ratify Independent Contract Agreement Between AUSD and Moon Mountain Media/Linda Minor Beginning July 1, 2009 Through June 30, 2010 for the Maintenance and Updating of the Albany Adult School Website for an Annual Cost not to Exceed \$3960.00. Funding Source: Adult Education Pg. 21
- 5. **Student Services**
 - a) Approve one (1) Independent Contractor agreement between Albany Unified School District and Pawar Transportation, LLC to provide transportation for eligible Special Education students on an as needed basis. Service will provide coverage when Albany School District van drivers are not available. Cost not to exceed \$4,000.00 (Funding Source: Special Education) Pg. 26
 - b) Approve Independent Contractor Agreement between Albany Unified School District and Helen Miller to provide Assistive Technology Services at a rate of \$135.00/hour. Cost not to exceed \$42,660.00 (Funding Source: Special Education) Pg. 31
 - c) Approve Independent Contractor Agreement between Albany Unified School District and Kathleen Incaro to provide Communication Access Realtime Translation (CART Services). Pg. 36

This service provides speech-to-text translation for one student.
 Rate is \$55.00/hour at a cost not to exceed \$40,232.50 (Funding Source: Special Education)

- e) Approve one (1) Master Contract between Albany Unified School District and behavioral Intervention Association (BIA) for specialized behavior intervention services at a cost of \$125.00/hour for Director/BID \$62.00/hour for Behavioral Specialist/BI-II and \$28.00/hour for Tutor/BI-I for three(3) students. Cost not to exceed \$58,537.00 (Funding Source: Special Education) Pg. 40

V. STUDENT BOARD MEMBERS

- A) Introduce New Student Board Members Gi-Youn Lee and Jonathan Chiang

VI. STAFF REPORTS

- A) Parks and Recreation Commission Bi-Annual Report
- B) Enrollment Report

VII. PERSONS TO ADDRESS THE BOARD ON MATTERS NOT ON THE AGENDA

Board practice limits each speaker to no more than three (3) minutes. The Brown Act limits Board ability to discuss or act on items which are not on the agenda; therefore, such items may be referred to staff for comment or for consideration on a future agenda.

VIII. REVIEW AND ACTION ITEMS

(Members of the public will have the opportunity to speak on all issues.)

- A) Accept the Albany Music Fund Commitment of \$75,500.00 for the 09-10 School Year Pg. 50
- B) Approve the Actuarial Valuation of Post Employment Benefit Plan Pg. 52
- C) Approve Board Policy Update/Revision (With Changes) Section 7000 – Facilities Pg. 77

IX. REVIEW AND DISCUSSION ITEMS

- A) 1st Reading of Board Policy Update/Revision Section 5000 – Students (Under Separate Cover) Pg. 116
- B) Student Safety - Arrival and Dismissal at School Sites Pg. 117

X. BOARD AND SUPERINTENDENT COMMENTS

XI. FUTURE AGENDA ITEMS

- A) Strategic Plan Update
- B) Williams Quarterly Report
- C) High School Health Waiver Report
- D) Enrichment Update
- E) Technology Report
- F) STAR Report
- G) Pool Update

H) IHS Waiver

XII. FUTURE BOARD MEETINGS

- A) Tuesday, September 15, 2009, 7:30 p.m., Regular Meeting, Albany Community Center, 1249 Marin Avenue, Albany
- B) Tuesday, October 6, 2009, 7:30 p.m., Regular Meeting, Albany Community Center, 1249 Marin Avenue, Albany
- C) Tuesday, October 20, 2009, 7:30 p.m., Regular Meeting, Albany Community Center, 1249 Marin Avenue, Albany

XIII. ADJOURNMENT

The Board believes that late night meetings deter public participation, can affect the Board's decision-making ability, and can be a burden to staff. Regular Board Meetings shall be adjourned at 10:00 p.m. unless extended to a specific time determined by a majority of the Board.

The Board of Education meeting packet is available for public inspection at the Albany Public Library, 1247 Marin Avenue, all school sites, and the lobby of the Albany Unified School District office, 904 Talbot Avenue, Albany. The agenda is available on the Albany Unified School District web site: www.albany.k12.ca.us


If you provide your name and/or address when speaking before the Board of Education, it may become a part of the official public record and the official minutes will be published on the Internet

In compliance with the Americans with Disability Act (ADA), if you need special assistance to participate in this meeting, please contact the Superintendent's Office at 510-558-3766. Notification must be give forty-eight (48) hours prior to the meeting to make reasonable arrangements for accessibility (28 CFR 35.102.104 ADA Title II).

**ALBANY UNIFIED SCHOOL DISTRICT
BOARD AGENDA BACKUP**

Regular Meeting of September 1, 2009

ITEM: Alameda County School Insurance Group
JPA Agreement

PREPARED BY: Laurie Harden, Assistant Superintendent, Business Services 

TYPE OF ITEM: *Consent Agenda*

BACKGROUND INFORMATION:

ACSIG provides the district's property and liability insurance as well as our dental and vision plans. To continue to participate in the JPA, the board needs to authorize and approve the attached Joint Exercise of Powers Agreement.

FINANCIAL INFORMATION:

RECOMMENDATION: Approve continued participation in ACSIG by approving the JPA agreement.





Alameda County Schools Insurance Group
 P.O. Box 2487
 Dublin, CA 94568
 Phone (925) 225-1030
 Fax (925) 225-0653
www.acsig.com

May 22, 2009

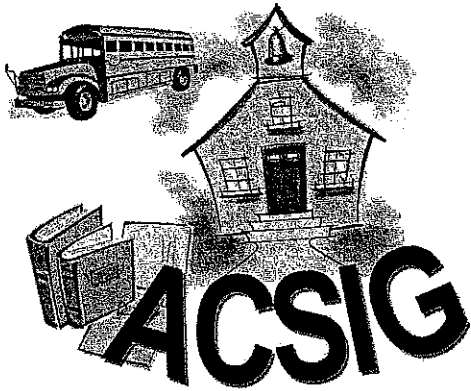
Laurie Harden
 Albany Unified School District
 904 Talbot Avenue
 Albany, CA 94706

Dear Ms. Harden:

Thank you for your participation in the Alameda County Schools Insurance Group (AC SIG). Throughout the recent past, ACSIG has reviewed all its files and archived historical data related to the Joint Powers Authority (JPA). It was discovered during this process that ACSIG has very few signed, JPA agreements (Agreement) from member agencies on file.

It is the goal of the Alameda County Schools Insurance Group to become an accredited JPA through the Association of California Joint-Powers Authority. A component of the accreditation process is current, signed JPA agreements from all member agencies.

AC SIG worked with attorney Robin Stewart from Kronick, Moskovitz, Tiedemann & Girard to develop a comprehensive JPA agreement that met all requirements for Joint Powers Authorities in California. This revised agreement was reviewed and approved by the ACSIG Executive Committee and JPA Board. Briefly, the goal of the revisions is to update the JPA agreement to reflect several court decisions that have been handed down and statutory enactments that have been put in place during the last 15-20 years. The most prominent of these are the *Program Beta* decision and the ensuing revisions to the Government Code: the bare fact of withdrawal from the Joint Powers Authority does not entitle the withdrawing agency to a return of any property or money that it has contributed to the JPA. Such returns may very well come along at a later time, but the JPA



gets to determine whether that will occur, and if so, when and how it will take place. Additionally, this revision clarifies the provisions of the Agreement relative to the JPA Board's ability to assess both current and former members for additional contributions to fund deficit years; added a "continuing loss" limitation in an effort to deal with the fallout of the California Supreme Court's *Montrose* decision; added a reference to a JPA's lawful authority to reinsure, which was codified in 1994; and added language that is designed to clarify the new-member application process, clarify the criteria for Board of Director eligibility, clarify the three-year minimum commitment to membership and "cleanup" of other housekeeping items.

It is now necessary for all member agencies of the Alameda County Schools Insurance Group (AC SIG) to have the revised JPA agreement approved by their Governing Boards. Each Board should approve the changes and authorize the signing of a copy of the ACSIG Joint Exercise of Powers Agreement because we are revising a 1979 JPA Agreement that did not contain any express provision authorizing the JPA's Board to amend it. A signed, approved agreement is due to ACSIG **no later than October 1, 2009**. A copy of each agency's specific agreement was distributed at the May 21, 2009 Joint Powers Board meeting. Additional copies are available upon request.

Thank you for your cooperation in this matter. Please feel free to contact me at (925) 225-1030 or kdennis@acsig.com should you have any questions or concerns.

Sincerely,

Kimberly L. Dennis
Executive Director

**FIRST AMENDED AND RESTATED
JOINT EXERCISE OF POWERS AGREEMENT
CREATING THE ALAMEDA COUNTY SCHOOLS
INSURANCE GROUP**

THIS FIRST AMENDED AND RESTATED AGREEMENT is made and entered into in the County of Alameda, State of California, by and among those Public Educational Agencies organized and existing under the laws of the State of California which are or may hereafter become parties signatory to this Agreement, and it supersedes the Joint Powers Agreement into which those who are currently members of this joint powers authority originally entered, dated May 22, 1979. Pursuant to the provisions of the California Joint Exercise of Powers Act (Government Code § 6500 *et seq.*), the California Government Claims Act (including but not limited to Government Code §§ 990.4 and 990.8), the California Education Code (including but not limited to Education Code §§ 39603 and 81603), the California Labor Code (including but not limited to Labor Code § 3700), and other provisions of California law, this Agreement is entered into for the purpose of operating a California joint powers authority known as the Alameda County Schools Insurance Group (hereinafter "ACSIG").

RECITALS:

WHEREAS, California Government Code section 6500 *et seq.* provides that two or more public agencies may by agreement jointly exercise any power common to the contracting parties; and

WHEREAS, California Government Code section 990.4 provides that a local public entity may self-insure, purchase insurance through an admitted insurance carrier, or purchase insurance through a surplus lines broker, or any combination of these; and

WHEREAS, California Government Code section 990.8 provides that two (2) or more local public agencies may, by a joint powers agreement, provide insurance for any purpose by any one or more of the methods specified in Government Code section 990.4, and may reinsure any liability or loss under a joint powers agreement for the pooling of self-insured claims or losses; and

WHEREAS, each of the Public Educational Agencies that is a party to this Agreement has the power to establish, manage, operate, and maintain programs of risk pooling and insurance or reinsurance for liability, property, workers' compensation, and other risks of loss; and

WHEREAS, the parties to this Agreement desire to join together for the purpose of establishing pools for self-insured losses, and/or purchasing excess insurance or reinsurance, and/or group-purchasing insurance coverage, and providing related loss-control programs and administrative services in connection with joint protection programs for said parties; and

WHEREAS, it appears economically feasible and practical for the parties to this Agreement to do so;

NOW THEREFORE, for and in consideration of all of the mutual benefits, covenants and agreements contained herein, and in consideration of the execution of this Agreement by other Public Educational Agencies, each of the parties hereto agrees as follows:

1. Creation of the Joint Powers Authority

Pursuant to Title I, Division 7, Chapter 5, Article 1, of the California Government Code (commencing with Government Code section 6500), there is hereby created a Joint Powers Authority, separate and apart from the public agencies signatory hereto, which shall be and is hereby created and shall hereafter be designated as the Alameda County Schools Insurance Group ("ACSIG" or "the Authority"). Pursuant to Government Code Section 6508.1, the debts, liabilities and obligations of the Authority shall not constitute debts, liabilities or obligations of any party to this Agreement.

2. Powers of ACSIG

ACSIG shall have the power and the authority to exercise any power common to the public agencies which are parties to this Agreement, provided that the same are in furtherance of the functions and objectives of this Agreement as herein set forth. Pursuant to Section 6509 of the California Government Code, the exercise of the aforesaid powers of ACSIG shall be subject to the restrictions upon the manner of exercising such powers by a public agency having the same status as a member agency of ACSIG, except as otherwise provided in this Agreement.

3. Purposes of ACSIG

The purposes of ACSIG shall be to administer this Agreement, pursuant to the Joint Exercise of Powers Act (California Government Code § 6500 *et seq.*), this Agreement, the ACSIG Bylaws and applicable program addendums, and any other applicable law or contract; to provide to ACSIG's members the capabilities of self-insurance, establishment and maintenance of funds to pay self-insured losses, and establishment and maintenance of funds to pay for desired insurance coverage, claims adjustment and administration, safety engineering, and other risk management and loss-avoidance services; and to provide a forum for discussion, study, development and implementation of recommendations of mutual interest regarding insurance, loss control, and related issues.

4. Governing Board of ACSIG

ACSIG shall be governed by a Board of Directors (the "Board of Directors" or "the Board"), which shall have the authority to carry out all functions of ACSIG and to establish and amend the Bylaws therefor. The representation, duties and powers of the Board of Directors shall be as set forth from time to time in the Bylaws. The Board shall be comprised of one (1) representative from each member agency of ACSIG that has not given notice of intent to withdraw from ACSIG, who shall be the Chief Business Officer from such agency; and one (1) alternate from each such member agency. The alternate shall have the authority to attend, participate in, and vote at any meeting of the ACSIG

Board of Directors when the regular member for whom he or she is an alternate is absent from said meeting. Each member agency shall have one (1) vote.

The Board may appoint an Executive Committee, to be comprised, and to serve in such manner, as the Board may from time to time prescribe in ACSIG's Bylaws.

5. Manner and Method of Exercise of ACSIG's Powers

The Board shall, either directly, through its Executive Committee, or by contract, perform any or all of the following acts:

- A. Establish and maintain funds to pay self-insured losses, which shall include the power to levy assessments for additional contributions of funds against, and the power to collect payment of such assessments from, both current and former ACSIG members and ACSIG Program participants when, in the sole discretion of the ACSIG Board, such additional funds are needed in order to maintain or restore the financial integrity of any fund established for this purpose.
- B. Establish and maintain funds to pay for desired insurance coverages.
- C. Perform, or contract for the performance of, the financial administration, claim service, legal representation, safety services and other services as necessary for the payment and handling of claims against Members.
- D. Make and enter into contracts.
- E. Pursue the Member's right of subrogation against a third party when appropriate, as may be set forth in the Bylaws or in one or more ACSIG Program Addendums.
- F. Acquire, hold and dispose of property, real and personal, including but not limited to, the acquisition of facilities and equipment.
- G. Employ agents and employees for the operation and maintenance of the programs.
- H. Incur debts, liabilities and obligations necessary to accomplish the purposes of this Agreement.
- I. Receive gifts, contributions, and donations of property, funds, services, and other forms of assistance from persons, firms, corporations, associations, and any governmental entity.
- J. Invest funds in accordance with policies and procedures as approved by the ACSIG Board of Directors, and as subject to law.
- K. Sue and be sued in its own name.
- L. Join other joint powers authorities to provide services and coverages to ACSIG.
- M. Provide, or contract for the providing of, educational workshops on insurance, loss control, and related topics.
- N. Perform any and all functions as, in the Board's sole discretion, may be necessary or appropriate to carry out this Agreement, so long as such other functions so performed are not prohibited by any provision of law.

6. Indemnification of Directors and Employees

ACSIG agrees to indemnify and hold its Board members, alternate Board members, and employees harmless against and free from all claims, expenses, demands, penalties, fines, forfeitures, judgments, settlements, attorney's fees, and any other amount actually and reasonably incurred or threatened by reason of, or as a result of, their official acts performed in the execution and administration of this Agreement and/or in the operation of the Authority created hereunder, including but not limited to amounts arising out of or by any judicial or quasi-judicial action or proceeding, whether civil, criminal, administrative or investigative, on the condition that it appear to the satisfaction of the Board that the indemnitee acted in good faith and in a manner reasonably believed by him or her to be in the best interest of ACSIG, or that such a person had no reasonable cause to believe that his or her conduct under the circumstances was unlawful. The termination of any proceeding by judgment, order, settlement, conviction, or plea of *nolo contendere* or its equivalent shall not for purposes of this Agreement of itself create any presumption that the indemnitee did not act in good faith and in a manner which he or she reasonably believed to be in the best interest of ACSIG, nor any presumption that such a person had reasonable cause to believe that his or her conduct under the circumstances was unlawful. This providing of indemnity shall not be construed to obligate ACSIG to pay any liability, including but not limited to punitive damages, which by law would be contrary to public policy or itself unlawful. The Board, at its discretion, may self-fund or provide for errors and omissions insurance policy coverage for the directors and officers and employees of ACSIG, at the expense of ACSIG.

7. Bylaws of ACSIG

ACSIG shall be governed pursuant to Bylaws adopted by the Board of Directors, and pursuant to such amendments to the Bylaws as may from time to time be adopted by the Board of Directors. Each party to this Agreement agrees to fully comply with, and be bound by, the provisions of said Bylaws, and further agrees that ACSIG shall be operated pursuant to this Agreement and said Bylaws.

8. Program Addendums

The rules governing the operation of each Program within ACSIG shall be contained in the Bylaws and/or in the Program Addendums to the Bylaws. Each Program will have a separate Addendum which will govern the operation of said Program.

9. ACSIG Membership

Each party to this Agreement must satisfy all of the criteria for eligibility for membership in ACSIG as those eligibility criteria are set forth from time to time in the Bylaws. Those entities that were Members at the establishment of ACSIG became Members on the original effective date of this Agreement, and are entitled to the rights and privileges, and are subject to the obligations, of membership, as are provided in this Agreement, in the Bylaws, and in any applicable Program Addendum(s). Public educational agencies, as defined in the ACSIG Bylaws, that desire membership after initial operation has begun shall apply under the provisions of the ACSIG Bylaws and the provisions of the relevant

Program Addendum(s).

10. **Withdrawal or Termination of Membership**

No Member may terminate its membership as a party to this Agreement until at least three (3) years have elapsed after becoming a party, nor may a Member terminate its participation in any ACSIG Program until at least three (3) years have elapsed after the commencement of said participation.

A Member may terminate its membership or be involuntarily terminated as set forth in the Bylaws and in the relevant Program Addendum(s) which are in effect at the time of the Member's termination. Unless the Bylaws and the relevant Program Addendum in effect at the time of the Member's termination provide otherwise, a Member's termination shall not be construed as a completion of the purpose of this Agreement, and shall not require the return, to any party, of any part of any contribution(s), payment(s), or advance(s) made by any party.

11. **Finances**

ACSIG shall be strictly accountable for all funds received and disbursed by it and, to that end, shall establish and maintain such funds and accounts as may be required by generally accepted accounting principles, or by any provision of law or any resolution of ACSIG.

Pursuant to Government Code section 6505.6, the Board of Directors shall name a Treasurer and an Auditor for ACSIG, which offices may, in the discretion of the Board, be held by the same person. The Treasurer and the Auditor shall have the duties described in the ACSIG Bylaws.

A bond or some other instrument satisfactory to the Board in the amount determined adequate by the Board of Directors shall be required of all officers and personnel that have charge of, handle, or have access to any funds of ACSIG. The bond or other instrument shall be paid for by ACSIG.

12. **Limitation on Coverage for Claims Alleging Continuous Loss Spanning More than ACSIG's Coverage Period**

Except as otherwise expressly agreed to in writing by an individual Member and the Board of Directors, ACSIG's payment and handling of claims against Members shall be only for claims arising out of facts occurring during the period of membership in ACSIG, and only for those Programs which the Member joined during its membership in ACSIG. Further, except as otherwise expressly agreed to in writing, ACSIG shall not pay any defense expense or indemnity for, or handle or incur any claims-administration expense for, any claim or portion of a claim that arises out of facts which occurred before a member's membership in ACSIG began, nor any claim or portion of a claim that arises out of facts occurring after a member's membership in ACSIG ended.

13. **Indemnification As Between Member Agencies**

Section 895.2 of the Government Code imposes certain tort liability jointly upon public entities solely by reason of such entities being parties to an agreement as defined in Section 895 of the Government Code. Accordingly, the parties hereto, as between themselves, pursuant to the authorization set forth in Sections 895.4 and 895.6 of the Government Code, each assumes the full liability imposed upon it or any of its officers, agents, or employees by law for injury caused by a negligent or wrongful act or omission occurring in the performance of this Agreement, to the same extent that such liability would be imposed in the absence of Section 895.2 of the Government Code. To achieve this purpose, each party hereby agrees to indemnify and hold harmless the other parties for any loss, cost or expense that may be imposed upon such other parties solely by virtue of Section 895.2 of the Government Code.

14. **Dissolution of ACSIG**

If ACSIG's Members determine that the purpose of this Agreement has been completed and that ACSIG shall therefore be dissolved, ACSIG may be dissolved upon the consent of all parties hereto; provided that in the event of dissolution, ACSIG shall continue to be responsible for all of its existing assets and liabilities. No property or surplus money may be divided or returned to any member or former member of ACSIG until all outstanding obligations of ACSIG, including covered claims against its members, have been resolved or a paid-up contract has been obtained which will remove all further obligation from ACSIG. It shall be permissible, upon dissolution of ACSIG, for the Members to accept responsibility for their outstanding claims through a contract with ACSIG. Disposition of any property acquired as a result of the joint exercise of powers, and any surplus money on hand, if any, will be made in proportion to the contributions made by participating Members. Upon final disposition of the assets, ACSIG will thereupon be terminated and dissolved.

15. **Affirmative Action Policy Statement**

It shall be the permanent and voluntary policy of ACSIG and the ACSIG Board to practice fair and impartial employment and program administration, recognizing applicants, employees, and contractors on the basis of personal and professional merit and claimants on the basis of merit, and thereby reaffirming the dignity of individuals without regard to race, color, creed, religion, national origin, ancestry, age, sex, marital status, or physical handicap.

16. **Enforcement of the Joint Powers Agreement**

The Board of Directors shall have full authority to enforce this Agreement. Any and all disputes between ACSIG and any Member agency in any way arising out of or regarding this Agreement, the ACSIG Bylaws, or any ACSIG Program Addendum(s), including any dispute relative to claims-handling or coverage for any claim, shall be resolved by binding arbitration pursuant to the provisions of California Code of Civil Procedure section 1280 *et seq.*, as amended from time to time; except that if a more specific provision is made in the Bylaws or in any Program Addendum, for the resolution of any

disputes arising thereunder, the terms of that document shall govern. In the event of arbitration hereunder, each party shall pay its own attorney's fees and costs, but ACSIG and the Member shall each share equally the cost of the arbitrator, the cost of the court reporter, if any, and any incidental costs of arbitration.

17. Notice and Service

Any notice given to the Authority pursuant to this Agreement shall be in writing, shall be dated and signed, and shall be effective when received by the Authority at its current office address for the purpose of receiving such notices.

18. Amendments to Agreement

This Agreement may be amended by a two-thirds vote of the Member agencies present at a lawfully convened meeting of the representatives of all ACSIG Member agencies, provided a quorum is present at said meeting.

19. Term of the Agreement

This Agreement shall be effective and binding on any signatory thereto upon execution. This Agreement is for an unlimited term, and shall continue in effect unless and until lawfully terminated as provided herein.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers, as set forth hereinbelow.

Member Entity: _____

Date: _____

By: _____

Title: _____

RESOLUTION

This resolution must be adopted in order to certify the approval of the Governing Board to enter into this transaction with the California Department of Education for the purpose of providing child care and development services and to authorize the designated personnel to sign contract documents for Fiscal Year 2009/10.

RESOLUTION

BE IT RESOLVED that the Governing Board of Albany Unified School District

authorizes entering into local agreement number/s CCTR-9002 CSPP - 9002 and that the person/s who is/are listed below, is/are authorized to sign the transaction for the Governing Board.

<u>NAME</u>	<u>TITLE</u>	<u>SIGNATURE</u>
<u>Marla Stephenson</u>	<u>Superintendent</u>	_____
<u>Laurie Harden</u>	<u>Asst. Superintendent Business</u>	_____
_____	_____	_____

PASSED AND ADOPTED THIS 1st day of September 2009/10, by the Governing Board of Albany Unified School District of Alameda County, California.

I, _____, Clerk of the Governing Board of Albany Unified School District, of Alameda County, California,

certify that the foregoing is a full, true and correct copy of a resolution adopted by the said Board at a regular meeting thereof held at a regular public place of meeting and the resolution is on file in the office of said Board.

(Clerk's signature) (Date)



CALIFORNIA DEPARTMENT OF EDUCATION

P17

1430 N Street

Sacramento, CA 95814-5901

F.Y. 09 - 10

DATE: July 01, 2009

CONTRACT NUMBER: CCTR-9002

PROGRAM TYPE: GENERAL CHILD CARE & DEV PROGRAMS

PROJECT NUMBER: 01-6112-00-9

LOCAL AGREEMENT FOR CHILD DEVELOPMENT SERVICES

CONTRACTOR'S NAME: ALBANY CITY UNIFIED SCHOOL DISTRICT

By signing this contract and returning it to the State, you are agreeing to provide services in accordance with the FUNDING TERMS and CONDITIONS (FT&C - available online at http://www.cde.ca.gov/fg/aa/cd/) and the CURRENT APPLICATION which by this reference are incorporated into this contract.

Funding of this contract is contingent upon appropriation and availability of sufficient funds. This contract may be terminated immediately by the State if funds are not appropriated or available in amounts sufficient to fund the State's obligations under this contract.

This contract is effective from July 01, 2009 through June 30, 2010. For satisfactory performance of the required services, the contractor shall be reimbursed in accordance with the Determination of Reimbursable Amount Section of the FT&C, at a rate not to exceed \$34.38 per child per day of full-time enrollment and a Maximum Reimbursable Amount (MRA) of \$486,757.00.

Any provision of this contract found to be in violation of Federal or State statute or regulation shall be invalid but such a finding shall not affect the remaining provisions of this contract.

SERVICE REQUIREMENTS

Minimum Child Days of Enrollment (CDE) Requirement 14,158.0

Minimum Days of Operation (MDO) Requirement 245

Exhibit A, Standard Provisions for State Contracts attached.

Form with sections for STATE OF CALIFORNIA and CONTRACTOR, including signature lines, titles, and financial details like AMOUNT ENCUMBERED BY THIS DOCUMENT (\$486,757) and PROGRAM/CATEGORY (Child Development Programs).



CALIFORNIA DEPARTMENT OF EDUCATION

1430 N Street

Sacramento, CA 95814-5901

F.Y. 09 - 10

DATE: July 01, 2009

CONTRACT NUMBER: CSPP-9002

PROGRAM TYPE: CALIFORNIA STATE
PRESCHOOL PROGRAM

PROJECT NUMBER: 01-6112-00-9

LOCAL AGREEMENT FOR CHILD DEVELOPMENT SERVICES

CONTRACTOR'S NAME: ALBANY CITY UNIFIED SCHOOL DISTRICT

By signing this contract and returning it to the State, you are agreeing to provide services in accordance with the FUNDING TERMS and CONDITIONS (FT&C - available online at <http://www.cde.ca.gov/fg/aa/cd/index.asp>) and the CURRENT APPLICATION which by this reference are incorporated into this contract. The FT&C and Requirements specify the contractual responsibilities of the State and the contractor. The Contractor's signature also certifies compliance with "Standard Provisions for State Contracts" (Exhibit A) which are attached hereto and by this reference incorporated herein.

Funding of this contract is contingent upon appropriation and availability of sufficient funds. This contract may be terminated immediately by the State if funds are not appropriated or available in amounts sufficient to fund the State's obligations under this contract.

This contract is effective from July 01, 2009 through June 30, 2010. For satisfactory performance of the required services, the contractor shall be reimbursed in accordance with the Determination of Reimbursable Amount Section of the FT&C, at a rate not to exceed \$34.38 per child per day of full-time enrollment and a Maximum Reimbursable Amount (MRA) of \$675,383.00.

Any provision of this contract found to be in violation of Federal or State statute or regulation shall be invalid but such a finding shall not affect the remaining provisions of this contract.

SERVICE REQUIREMENTS

Minimum Child Days of Enrollment (CDE) Requirement 19,644.6

Minimum Days of Operation (MDO) Requirement 245

Exhibit A, Standard Provisions for State Contracts attached.

STATE OF CALIFORNIA		CONTRACTOR			
BY (AUTHORIZED SIGNATURE)		BY (AUTHORIZED SIGNATURE)			
PRINTED NAME OF PERSON SIGNING Margie Burke, Manager		PRINTED NAME AND TITLE OF PERSON SIGNING			
TITLE Contracts, Purchasing & Conf Svcs		ADDRESS			
AMOUNT ENCUMBERED BY THIS DOCUMENT \$ 675,383	PROGRAM/CATEGORY (CODE AND TITLE) Child Development Programs (OPTIONAL USE) 0656 23254-6112		FUND TITLE General		Department of General Services use only
PRIOR AMOUNT ENCUMBERED FOR THIS CONTRACT \$ 0	ITEM 30.10.020.001 6110-196-0001	CHAPTER 1	STATUTE 2009	FISCAL YEAR 2009-2010	
TOTAL AMOUNT ENCUMBERED TO DATE \$ 675,383	OBJECT OF EXPENDITURE (CODE AND TITLE) 702 SACS: Res-6060 Rev-8530				
I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above.		T.B.A. NO.	B.R. NO.		
SIGNATURE OF ACCOUNTING OFFICER		DATE			

STANDARD PROVISIONS FOR STATE CONTRACTS

1. The Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.
2. Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.
3. The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.
4. This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
5. Time is of the essence in this Agreement.
6. No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
7. The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.
8. Contractors entering into a contract funded wholly or in part with funds from the United States Government agree to amendments in funding to reflect any reductions in funds if the Congress does not appropriate sufficient funds. In addition, the contract is subject to any restrictions, limitations or enactments of congress which affect the provisions, terms or funding of this agreement in any manner. The State shall have the option to terminate the contract without cost to the State in the event that Congress does not appropriate funds or a United States agency withholds or fails to allocate funds.

Contractor Certification Clauses

The authorized signer of this Contract CERTIFIES UNDER PENALTY OF PERJURY that he/she are duly authorized to legally bind the Contractor to the clauses(s) listed below. This certification is made under the laws of the State of California.

1. **NON-DISCRIMINATION CLAUSE:** During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (*Government Code* Section 12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (*California Code of Regulations*, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing *Government Code* Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the *California Code of Regulations*, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement. (Not applicable to public entities.)

2. **DRUG-FREE WORKPLACE CERTIFICATION:** By signing this contract, the contractor will comply with requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking following actions:
- Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
 - Establish a Drug-Free Awareness Program to inform employees about:
 - the dangers of drug abuse in the workplace;
 - the person's or organization's policy of maintaining a drug-free workplace;
 - any available counseling, rehabilitation and employee assistance programs; and,
 - penalties that may be imposed upon employees for drug abuse violations.
 - Every employee who works on the proposed contract will:
 - receive a copy of the company's drug-free workplace policy statement; and,
 - agree to abide by the terms of the company's statement as a condition of employment on the contract.

Failure to comply with these requirements may result in suspension of payments under this agreement or termination of this agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: (1) the Contractor has made false certification, or (2) violated the certification by failing to carry out the requirements as noted above. (*Government Code 8350 et seq.*)

3. **NATIONAL LABOR RELATIONS BOARD CERTIFICATION:** Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (*Public Contract Code 10296*) (Not applicable to public entities.)
4. **EXPATRIATE CORPORATIONS:** Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of *Public Contract Code* Section 10286 and 10286.1, and is eligible to contract with the State of California.
5. **SWEATFREE CODE OF CONDUCT:**
- All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and *Public Contract Code* Section 6108.
 - The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).
6. **DOMESTIC PARTNERS:** For contracts over \$100,000 executed or amended after January 1, 2007, the contractor certifies that contractor is in compliance with *Public Contract Code* Section 10295.3.
7. **PAYEE DATA RECORD FORM STD. 204:** This form must be completed by all contractors that are not another state agency or other governmental entity.

Albany Unified School District
Independent Contractor Agreement

THIS AGREEMENT, made this **1st day of July 2009** between **Moon Mountain Media/Linda Minor**, an independent contractor ("Contractor") having a principal place of business at **(permanent mailing) P.O. Box 3576 , San Rafael, CA 94912, (express mailing) 106 San Pablo Town Center, #266, San Pablo, CA 94806**, and the Albany Unified School District ("District"), mutually agree as follows:

I. TERMS OF THE CONTRACT

- A. This Agreement will become effective as of the date above and will continue in effect through **June 30, 2010** unless sooner terminated.

II. SCOPE OF WORK TO BE PERFORMED BY CONTRACTOR

- A. Contractor agrees to perform the services specified in the "Description of Services" attached to this Agreement and incorporated by reference herein as Exhibit "A".
- B. Contractor shall perform within the time set forth in Exhibit "A": everything required to be performed.

III. COMPENSATION

- A. In consideration for the services and/or materials referenced in Article II, scope of work by contract, District agrees to pay **\$45/hour**. Unless otherwise provided for in Article II, payment of expenses shall be made within sixty (60) days upon completion/delivery of goods and accompanied by invoices and appropriate supporting documentation. Invoices shall be submitted to the attention of the Albany Unified School District, Attention: Accounts Payable, along with completed W-9 Form (copy attached).
- B. The District reserves the right to withhold payment until order is completed and/or accepted by the District.

IV. OBLIGATION OF CONTRACTOR

- A. While performing services hereunder, Contractor is an independent contractor and not an officer, agent or employee of the District.
- B. The Contractor shall provide and furnish all necessary tools, labor, materials, equipment and all transportation services as described and required to perform the services under this Agreement. The Contractor shall assume all other expenses incurred in connection with the performance of this contract and the District shall not be responsible for payment of any other expenses. The Contractor is personally liable for

among other things, taxes, personal health and car insurance. Workers' Compensation for his/her own employees and business expenses for maintaining his/her office.

- C. The Contractor shall not assign, transfer, convey, sublet or other wise dispose of this contract or its right, title or interest therein, or any part thereof, such attached or purported assignments, transfer, conveyance, sublease or other disposition shall be null, void and of no legal effect whatsoever, and the contract may, at the option of the District be terminated, revoked and annulled, and the District shall thereupon be relieved and discharged from any and all liability and obligations growing out of the same to the contractor, and to its purported assignee or transferee.

Item IV-D () is () is not applicable to this agreement.

- D. Sections 1771 through 1775 of the Labor Code are hereby made part of this agreement as if written in its entirety herein.
- E. All equipment, supplies and services sold to the District shall conform to the general safety orders of the State of California.
- F. It is the policy of the District that in connection with all work performed under any and all contracts, including independent contractor agreements, there will be no discrimination against any prospective or active employee engaged in the work because of race, color, ancestry, national origin, religious creed, sex, age, physical handicap, medical condition or marital status. In the performance of the terms of this contract, Contractor agrees to comply with applicable Federal and California laws including, but not limited, to the California Fair Employment and Housing Act, beginning with Government Code Section 12900, and labor Code Section 1735, and agrees that it will not engage in nor permit any subcontractor as it may employ to engage in unlawful discrimination in the employment of persons because of race, color, ancestry, religious creed, national origin, age, physical handicap, medical condition, marital status, or sex of such person.

V. LIABILITY

The Contractor agrees to hold harmless and to indemnify the District for any injury to person or property sustained by the Contractor, by any person, firm or corporation, employed directly or indirectly by the Contractor, or by any of the individuals participating in, or associated with, the Contractor, however, caused. The Contractor further agrees to hold harmless and to indemnify the District for any injury to person or property sustained by any person, firm or corporation, caused by any act, neglect, default or omission of the Contractor, or of any person, firm or Corporation directly or indirectly employed by the Contractor upon or in connection with this Agreement, or any of the participants arising out of or in the course of the term of this Agreement, and the contractor, at his/her

own cost, expense and risk, shall defend any and all actions, suits or other legal proceedings that any be instituted against the District for any such claim or demand and pay or satisfy and judgment, including attorney fees and costs, that may be rendered against the District in any such action, suit or legal proceeding.

VI. ENTIRETY OF AGREEMENT

This Agreement supersedes any and all agreements, either oral or written, between the parties hereto with respect to the rendering of services by Contractor for the District and contains all the covenants and agreements between the parties. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding. Any modification of this Agreement will be effective only if it is in writing, signed and dated by both the Contractor and the District.

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

VII. ATTORNEY FEES

If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party will be entitled to reasonable attorney fees, which may be set by the court in the same action or in a separate action brought for the purpose, in addition to any other relief to which the party may be entitled.

This Agreement will be governed by and construed in accordance with the laws of the State of California.

EXECUTED AT: Albany, California, on the date first written above.

ALBANY UNIFIED SCHOOL DISTRICT

By: _____
District Superintendent

Linda Minor
Independent Contractor

07/01/2009 545-64-7673
Date Social Security #

Exhibit "A"

Description of Services

Description of Services:

1. Minor maintenance, updating, periodic changes to Albany Adult School website pages (www.albanyadultschool.org) per requests from Albany Adult School office staff. Examples include room changes, "class cancelled" indicator, "class full" indicator, teacher or class description changes, and other changes as requested.

Minor maintenance hours average 1 to 4 hours per month, depending on requests from adult school staff.

2. Major changes prior to new terms (Fall, Winter, Spring, Summer) include total revision of classes, dates, times, descriptions, new or revised instructor pages, in coordination with office staff's development of adult school class offerings.

Major term changes average 6 to 10 hours per term, depending on how many new classes are offered and how many old class listings are changed.

Date(s) Services to be performed:

1. Minor changes are completed within 48 hours of being requested by the AAS office staff.

2. Major changes (term revisions) are completed in coordination with the printing and mailing schedule of the paper catalog, generally a few weeks before new term classes start.

Yearly Cost:

1. Minor maintenance:		
	4 hrs/month x 12 mo x \$45/hr	\$2160
2. Major term changes:		
	10 hrs/term x 4 terms x \$45/hr	<u>\$1800</u>
	Total per year	\$3960

\$3960 is the maximum amount. Only hours worked are billed. The number of hours worked and billed depends on each term's requested changes.

Exhibit "B"

INDEPENDENT CONTRACTOR
CERTIFICATION OF
EMPLOYEE CLEARANCE

Name of Company/Individual: **Moon Mountain Media / Linda Minor**

Permanent Mailing: P.O. Box 3576, San Rafael, CA 94912

Express Mailing: 106 San Pablo Town Center #266, San Pablo, CA 94806

Telephone: Cell: 415-298-8204 / Home: 510-559-9440 FAX 415-704-3004

Email: Linda@PhotoshopClass.com

Contact Person: Linda Minor, Owner/Sole Proprietor

I certify that:

- My company has completed background checks pursuant to Education Code Section 45125.1 and 45125.2 on all of our employees who may come into contact with pupils while working on projects for the Albany Unified School District. **No employees other than myself – owner/sole proprietor. Background check via State of California teaching credential FBI check, plus Berkeley/Albany/West Contra Costa school district city/county police background checks.**

- None of my company's employees, who may come into contract with pupils while working on projects for the Albany Unified School District have been convicted of a violent or serious felony as defined in Education Code Section 45122.1 (see exhibit "B")
- I have attached a list of the names of our employees who may come in contact with pupils. I also agree to update the list as employees for new employees prior to their contact with pupils.

I certify that any false, deceptive, misleading, or non-disclosed information related to this certification may result in tort liability for my company/myself.

Linda Minor Owner/Sole Proprietor
Print Name Title

Linda Minor July 1, 2009
Signature Date

**ALBANY UNIFIED SCHOOL DISTRICT
BOARD AGENDA BACKUP**

Regular Meeting of September 1, 2009

ITEM: Approve Independent Contractor Agreement for Pawar Transportation, LLC

PREPARED BY: Diane Marie, Director of Special Education *Diane Marie*

TYPE OF ITEM: Consent Calendar – Student Services

BACKGROUND INFORMATION:

Approve one (1) Independent Contractor Agreement between Albany Unified School District and Pawar Transportation, LLC to provide transportation for eligible Special Education students on an as needed basis. Service will provide coverage when Albany School District van drivers are not available. Cost not to exceed \$4,000.00.

FINANCIAL INFORMATION:

Funding Source: Special Education

RECOMMENDATION: Approve Independent Contractor Agreement at a cost not to exceed \$4,000.00.

Albany Unified School District Independent Contractor Agreement

THIS AGREEMENT, made this 14th day/date of August, 2009, between Pawar Transportation LLC, an independent contractor ("Contractor") having a principal place of business at Walnut Creek, and the Albany Unified School District

("District"), mutually agree as follows:

I. TERMS OF THE CONTRACT

- A. This Agreement will become effective as of the date above and will continue in effect through June 30, 2010, unless sooner terminated.

II. SCOPE OF WORK TO BE PERFORMED BY CONTRACTOR

- A. Contractor agrees to perform the services specified in the "Description of Services" attached to this Agreement and incorporated by reference herein as Exhibit "A".
- B. Contractor shall perform within the time set forth in Exhibit "A": everything required to be performed.

III. COMPENSATION

- A. In consideration for the services and/or materials referenced in Article II, scope of work by contract, District agrees to pay (See Exhibit A). Unless otherwise provided for in Article II, payment of expenses shall be made within sixty (60) days upon completion/delivery of goods and accompanied by invoices and appropriate supporting documentation. Invoices shall be submitted to the attention of the Albany Unified School District, Attention: Accounts Payable, along with completed W-9 Form (copy attached).
- B. The District reserves the right to withhold payment until order is completed and/or accepted by the District.

IV. OBLIGATION OF CONTRACTOR

- A. While performing services hereunder, Contractor is an independent contractor and not an officer, agent or employee of the District.
- B. The Contractor shall provide and furnish all necessary tools, labor, materials, equipment and all transportation services as described and required to perform the services under this Agreement. The Contractor shall assume all other expenses incurred in connection with the performance of this contract and the District shall not be responsible for payment of any other expenses. The Contractor is personally liable for among other things, taxes, personal health and car insurance. Workers' Compensation for his/her own employees and business expenses for maintaining his/her office.
- C. The Contractor shall not assign, transfer, convey, sublet or other wise dispose of this contract or its right, title or interest therein, or any part thereof, such attached

- C. The Contractor shall not assign, transfer, convey, sublet or other wise dispose of this contract or its right, title or interest therein, or any part thereof, such attached or purported assignments, transfer, conveyance, sublease or other disposition shall be null, void and of no legal effect whatsoever, and the contract may, at the option of the District be terminated, revoked and annulled, and the District shall thereupon be relieved and discharged from any and all liability and obligations growing out of the same to the contractor, and to its purported assignee or transferee.

Item 4 () is () is not applicable to this agreement.

- D. Sections 1771 through 1775 of the Labor Code are hereby made part of this agreement as if written in its entirety herein.
- E. All equipment, supplies and services sold to the District shall conform to the general safety orders of the State of California.
- F. It is the policy of the District that in connection with all work performed under any and all contracts, including independent contractor agreements, there will be no discrimination against any prospective or active employee engaged in the work because of race, color, ancestry, national origin, religious creed, sex, age, physical handicap, medical condition or marital status. In the performance of the terms of this contract, Contractor agrees to comply with applicable Federal and California laws including, but not limited, to the California Fair Employment and Housing Act, beginning with Government Code Section 12900, and labor Code Section 1735, and agrees that it will not engage in nor permit any subcontractor as it may employ to engage in unlawful discrimination in the employment of persons because of race, color, ancestry, religious creed, national origin, age, physical handicap, medical condition, marital status, or sex of such person.

V. LIABILITY

The Contractor agrees to hold harmless and to indemnify the District for any injury to person or property sustained by the Contractor, by any person, firm or corporation, employed directly or indirectly by the Contractor, or by any of the individuals participating in, or associated with, the Contractor, however, caused. The Contractor further agrees to hold harmless and to indemnify the District for any injury to person or property sustained by any person, firm or corporation, caused by any act, neglect, default or omission of the Contractor, or of any person, firm or Corporation directly or indirectly employed by the Contractor upon or in connection with this Agreement, or any of the participants arising out of or in the course of the term of this Agreement, and the contractor, at his/her own cost, expense and risk, shall defend any and all actions, suits or other legal proceedings that any be instituted against the District for any such claim or demand and pay or satisfy and judgment, including attorney fees and costs, that may be rendered against the District in any such action, suit or legal proceeding.

VII. ENTIRETY OF AGREEMENT

This Agreement supersedes any and all agreements, either oral or written, between the parties hereto with respect to the rendering of services by Contractor for the

District and contains all the covenants and agreements between the parties. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding. Any modification of this Agreement will be effective only if it is in writing, signed and dated by both the Contractor and the District.

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

VIII. ATTORNEY FEES

If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party will be entitled to reasonable attorney fees, which may be set by the court in the same action or in a separate action brought for the purpose, in addition to any other relief to which the party may be entitled.

This Agreement will be governed by and construed in accordance with the laws of the State of California.

EXECUTED AT Albany, California, on the date first written above.

ALBANY UNIFIED SCHOOL DISTRICT

By: _____
District Superintendent



Independent Contractor



Date Social Security or Federal I.D. #

Description of Services

Description of Services

Transportation for eligible Special Education students.

Date(s) of Services to be performed:

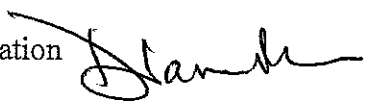
On an as needed basis to provide coverage when Albany School District van drivers are absent.

Cost not to exceed \$4,000.00

**ALBANY UNIFIED SCHOOL DISTRICT
BOARD AGENDA BACKUP**

Regular Meeting of September 1, 2009

ITEM: Approve Independent Contractor Agreement, Helen Miller

PREPARED BY: Diane Marie, Director of Special Education 

TYPE OF ITEM: Consent Calendar – Student Services

BACKGROUND INFORMATION:

Approve Independent Contractor Agreement between Albany Unified School District and Helen Miller to provide Assistive Technology Services at a rate of \$135.00/hour. Cost not to exceed \$42,660.00.

FINANCIAL INFORMATION:

Funding Source: Special Education

RECOMMENDATION: Approve Independent Contractor Agreement at a cost not to exceed \$42,660.00.

Albany Unified School District Independent Contractor Agreement

THIS AGREEMENT, made this 1st day/date of July, 2009, between Heleo C. Miller

_____, an independent contractor ("Contractor") having a principal

place of business at 2340 Powell St. #215, and the Albany Unified School District

(Emerquille, Ca 94608 "District"), mutually agree as follows:

I. TERMS OF THE CONTRACT

- A. This Agreement will become effective as of the date above and will continue in effect through June 30, 2010, unless sooner terminated.

II. SCOPE OF WORK TO BE PERFORMED BY CONTRACTOR

- A. Contractor agrees to perform the services specified in the "Description of Services" attached to this Agreement and incorporated by reference herein as Exhibit "A".
- B. Contractor shall perform within the time set forth in Exhibit "A": everything required to be performed.

III. COMPENSATION

- A. In consideration for the services and/or materials referenced in Article II, scope of work by contract, District agrees to pay \$ 135.⁰⁰. Unless otherwise provided for in Article II, payment of expenses shall be made within sixty (60) days upon completion/delivery of goods and accompanied by invoices and appropriate supporting documentation. Invoices shall be submitted to the attention of the Albany Unified School District, Attention: Accounts Payable, along with completed W-9 Form (copy attached).
- B. The District reserves the right to withhold payment until order is completed and/or accepted by the District.

IV. OBLIGATION OF CONTRACTOR

- A. While performing services hereunder, Contractor is an independent contractor and not an officer, agent or employee of the District.
- B. The Contractor shall provide and furnish all necessary tools, labor, materials, equipment and all transportation services as described and required to perform the services under this Agreement. The Contractor shall assume all other expenses incurred in connection with the performance of this contract and the District shall not be responsible for payment of any other expenses. The Contractor is personally liable for among other things, taxes, personal health and car insurance. Workers' Compensation for his/her own employees and business expenses for maintaining his/her office.

C. The Contractor shall not assign, transfer, convey, sublet or other wise dispose of this contract or its right, title or interest therein, or any part thereof, such attached or purported assignments, transfer, conveyance, sublease or other disposition shall be null, void and of no legal effect whatsoever, and the contract may, at the option of the District be terminated, revoked and annulled, and the District shall thereupon be relieved and discharged from any and all liability and obligations growing out of the same to the contractor, and to its purported assignee or transferee.

Item 4 () is () is not applicable to this agreement.

- D. Sections 1771 through 1775 of the Labor Code are hereby made part of this agreement as if written in its entirety herein.
- E. All equipment, supplies and services sold to the District shall conform to the general safety orders of the State of California.
- F. It is the policy of the District that in connection with all work performed under any and all contracts, including independent contractor agreements, there will be no discrimination against any prospective or active employee engaged in the work because of race, color, ancestry, national origin, religious creed, sex, age, physical handicap, medical condition or marital status. In the performance of the terms of this contract, Contractor agrees to comply with applicable Federal and California laws including, but not limited, to the California Fair Employment and Housing Act, beginning with Government Code Section 12900, and labor Code Section 1735, and agrees that it will not engage in nor permit any subcontractor as it may employ to engage in unlawful discrimination in the employment of persons because of race, color, ancestry, religious creed, national origin, age, physical handicap, medical condition, marital status, or sex of such person.

V. LIABILITY

The Contractor agrees to hold harmless and to indemnify the District for any injury to person or property sustained by the Contractor, by any person, firm or corporation, employed directly or indirectly by the Contractor, or by any of the individuals participating in, or associated with, the Contractor, however, caused. The Contractor further agrees to hold harmless and to indemnify the District for any injury to person or property sustained by any person, firm or corporation, caused by any act, neglect, default or omission of the Contractor, or of any person, firm or Corporation directly or indirectly employed by the Contractor upon or in connection with this Agreement, or any of the participants arising out of or in the course of the term of this Agreement, and the contractor, at his/her own cost, expense and risk, shall defend any and all actions, suits or other legal proceedings that any be instituted against the District for any such claim or demand and pay or satisfy and judgment, including attorney fees and costs, that may be rendered against the District in any such action, suit or legal proceeding.

VII. ENTIRETY OF AGREEMENT

This Agreement supersedes any and all agreements, either oral or written, between the parties hereto with respect to the rendering of services by Contractor for the

District and contains all the covenants and agreements between the parties. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding. Any modification of this Agreement will be effective only if it is in writing, signed and dated by both the Contractor and the District.

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

VIII. ATTORNEY FEES

If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party will be entitled to reasonable attorney fees, which may be set by the court in the same action or in a separate action brought for the purpose, in addition to any other relief to which the party may be entitled.

This Agreement will be governed by and construed in accordance with the laws of the State of California.

EXECUTED AT Albany, California, on the date first written above.

ALBANY UNIFIED SCHOOL DISTRICT

By: _____
District Superintendent

h. Miller
Independent Contractor

8-17-09
Date

Social Security or Federal I.D. #

Description of Services

Exhibit "A"

Description of Services

Services: Assistive Technology Services

- Management of curricula access all subject areas
- Direct instruction / curriculum adaptation all subject areas
- Direct instruction: usage of software as it applies to instruction
- Direct instruction as to usage of hardware (adaptive technology)
- Ongoing assessment of all academic skills
- Ongoing assessment of computer skills and computer access
- Curriculum adaptation supervision and training: of 2 to 3 instructional assistants:
 - OCR scanning, Math direct input into appropriate software, Science, History, English and additional academic classes except math: scanning, editing, reformatting/online access
- Acquiring appropriate curriculum materials with adaptations,
- Review and recommend purchase of enlarged materials, color coping and enlargements, web searches for additional materials to support standard curriculum
- Maintaining student's hardware and software
- Maintain staff software and hardware
- Preparing for standardized test
- Direct support for administering standardized tests
- Attend and prepare for all IEP meetings and any additional meetings
- Meet with other staff and consultants concerning curriculum and student current and future classes, schedule
- Research and planning for additional hardware and software needs as applies to the curricula
- Ongoing staff training: Basic computer skills, basic windows 2000 skills, printer, copier, scanning OCR and graphic, use and appropriate application of software: Scientific Notebook, WYNN, Paint, Word, Graph, and others as needed. Training for specific adaptations for Meecha's learning needs, formatting of computer based materials, develop scheduling and time management skills to help assure Meecha has access to all her curricula on her computer.
- Ongoing communication with staff concerning Meecha's needs.
- IEP and planning meetings with staff and parents.
- Contact with publishers to acquire curricula.
- Contact with school district staff, publishers to obtain appropriate materials.

Date(s) of Services to be performed: 2009-2010 academic school year

Average up to 8 hours a week per student schedule and need.
 Cost not to exceed \$42,660.00.

**ALBANY UNIFIED SCHOOL DISTRICT
BOARD AGENDA BACKUP**

Regular Meeting of September 1, 2009

ITEM: Approve Independent Contractor Agreement, Kathleen Incaro
PREPARED BY: Diane Marie, Director of Special Education *Diane Marie*
TYPE OF ITEM: Consent Calendar – Student Services

BACKGROUND INFORMATION:

Approve Independent Contractor Agreement between Albany Unified School District and Kathleen Incaro to provide Communication Access Realtime Translation (CART Services). This service provides speech-to-text translation for one student. Rate is \$55.00/hour at a cost not to exceed \$40,232.50

FINANCIAL INFORMATION:

Funding Source: Special Education

RECOMMENDATION: Approve Independent Contractor Agreement for a cost not to exceed \$40,232.50.

Albany Unified School District Independent Contractor Agreement

THIS AGREEMENT, made this 17th day/date of August, 2009, between Kathleen Tincello

_____, an independent contractor ("Contractor") having a principal place of business at 100 Pradera Way, San Ramon, CA, and the Albany Unified School District ("District"), mutually agree as follows:

I. TERMS OF THE CONTRACT

A. This Agreement will become effective as of the date above and will continue in effect through June 30, 2010, unless sooner terminated.

II. SCOPE OF WORK TO BE PERFORMED BY CONTRACTOR

- A. Contractor agrees to perform the services specified in the "Description of Services" attached to this Agreement and incorporated by reference herein as Exhibit "A".
- B. Contractor shall perform within the time set forth in Exhibit "A": everything required to be performed.

III. COMPENSATION

- A. In consideration for the services and/or materials referenced in Article II, scope of work by contract, District agrees to pay \$ 55/hr. Unless otherwise provided for in Article II, payment of expenses shall be made within sixty (60) days upon completion/delivery of goods and accompanied by invoices and appropriate supporting documentation. Invoices shall be submitted to the attention of the Albany Unified School District, Attention: Accounts Payable, along with completed W-9 Form (copy attached).
- B. The District reserves the right to withhold payment until order is completed and/or accepted by the District.

IV. OBLIGATION OF CONTRACTOR

- A. While performing services hereunder, Contractor is an independent contractor and not an officer, agent or employee of the District.
- B. The Contractor shall provide and furnish all necessary tools, labor, materials, equipment and all transportation services as described and required to perform the services under this Agreement. The Contractor shall assume all other expenses incurred in connection with the performance of this contract and the District shall not be responsible for payment of any other expenses. The Contractor is personally liable for among other things, taxes, personal health and car insurance. Workers' Compensation for his/her own employees and business expenses for maintaining his/her office.

District and contains all the covenants and agreements between the parties. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding. Any modification of this Agreement will be effective only if it is in writing, signed and dated by both the Contractor and the District.

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

VIII. ATTORNEY FEES

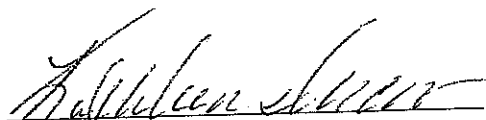
If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing party will be entitled to reasonable attorney fees, which may be set by the court in the same action or in a separate action brought for the purpose, in addition to any other relief to which the party may be entitled.

This Agreement will be governed by and construed in accordance with the laws of the State of California.

EXECUTED AT Albany, California, on the date first written above.

ALBANY UNIFIED SCHOOL DISTRICT

By: _____
District Superintendent


Independent Contractor

8/24/09
Date Social Security or Federal I.D. # _____

Exhibit "A"

Description of Services

Description of Services

PROVIDE CART SERVICES - COMMUNICATION ACCESS REALTIME TRANSLATION, USING STENO MACHINE, NOTEBOOK COMPUTER, and realtime software to render SPEECH-TO-TEXT translation for student.

Cost not to exceed: \$40,232.50.
Date(s) of Services to be performed:

8/26/09 - 6/10

**ALBANY UNIFIED SCHOOL DISTRICT
BOARD AGENDA BACKUP**

Regular Meeting of September 1, 2009

ITEM: Approve Master Contract for Behavioral Intervention Association (BIA)

PREPARED BY: Diane Marie, Director of Special Education *Diane Marie*

TYPE OF ITEM: Consent Calendar -- Student Services

BACKGROUND INFORMATION:

Approve one (1) Master Contract between Albany Unified School District and Behavioral Intervention Association (BIA) for specialized behavior intervention services at a cost of \$125.00/hour for Director/BID \$62.00/hour for Behavior Specialist/BI-II and \$28.00/hour for Tutor/BI-I for three (3) students. Cost not to exceed \$58,537.00

FINANCIAL INFORMATION:

Funding Source: Special Education

RECOMMENDATION: Approve Master Contract at a cost not to exceed \$58,537.00.

2009-2010

CONTRACT NUMBER:

LEA: ALBANY UNIFIED SCHOOL DISTRICT

NONPUBLIC SCHOOL/AGENCY/RELATED SERVICES PROVIDER:

Behavioral Intervention Association (BIA)

NONPUBLIC, NONSECTARIAN SCHOOL/AGENCY SERVICES
MASTER CONTRACT

AUTHORIZATION FOR MASTER CONTRACT AND GENERAL PROVISIONS

1. **MASTER CONTRACT**

This Master Contract is entered into this 1st day of July, 2009, between the Albany Unified School District (hereinafter referred to as "LEA") and BIA (hereinafter referred to as "CONTRACTOR") for the purpose of providing special education and/or related services to LEA pupils with exceptional needs under the authorization of California Education Code sections 56157, 56361 and 56365 *et seq.* and Title 5 of the California Code of Regulations section 3000 *et seq.*, AB490 (Chapter 862, Statutes of 2003) and AB1858 (Chapter 914, Statutes of 2004). It is understood that this Master Contract does not commit LEA to pay for special education and/or related services provided to any LEA pupil, or CONTRACTOR to provide such special education and/or related services, unless and until an authorized LEA representative approves the provision of special education and/or related services by CONTRACTOR pursuant to an Individualized Education Plan (hereinafter referred to as "IEP"), Individual Family Service Plan (hereinafter referred to as IFSP) or Rehabilitation Act Section 504 plan.

SELPA Collaborative. The LEA is a member of the Bay Area SELPA Collaborative. Nonpublic schools and nonpublic agencies that are geographically located in one of the participating SELPAs agree to participate in this collaborative process to establish a uniform contract for identified services and standards. The established system provides NPA/Ss with an opportunity to have input to the development of the process, contract issues, etc., and a simplified, standard process for rate negotiation with the participating SELPAs. Issues listed on the Rate Schedule portion of this Master Contract may be reviewed on an annual basis upon request of the CONTRACTOR using the established Bay Area SELPA Collaborative system. CONTRACTOR agrees that the rates set forth in this Master Contract will remain unchanged from July 1 through June 30 of the term of contract, with no changes in the services provided, unless changed in a duly executed amendment to this Master Contract signed by both parties. Increases in rates will be considered on an annual basis and remain unchanged for the term of the contract from July 1 through June 30, with no changes in level of service provided without written approval by both parties.

NPA/Ss that are not geographically located in a participating SELPA should negotiate rates with their geographically corresponding SELPA(s). The LEA will contact the corresponding

62. CONTRACTOR	CONTRACTOR NUMBER	2009-2010
(NONPUBLIC SCHOOL OR AGENCY)		(CONTRACT YEAR)

Per CDE Certification, total enrollment may not exceed _____

The attached rate schedule limits the number of LEA students that may be enrolled and maximum dollar amount of the contract. It may also limit the maximum number of students that can be provided specific services. Per diem rates for LEA students whose IEPs authorize less than a full instructional day shall be adjusted proportionally. Special education and/or related services offered by CONTRACTOR, shall be provided by qualified personnel as per State and Federal law, and the codes and charges for such educational and/or related services during the term of this contract, shall be as stated in section 62.

Rate Schedule. Special education and/or related services offered by CONTRACTOR, and the charges for such educational and/or related services during the term of this contract shall be as follows:

	Rate	Period
A. Basic Education Program/Special Education Instruction		
Basic Education Program/Dual Enrollment*		

*Per Diem rates for LEA pupils whose IEP/IFSPs authorize less than a full instructional day shall be adjusted proportionally. In such cases only, the adjustments in basic rate shall be based on the percentage of a 240-minute instructional day.

B. Related Services

(1)	a. Transportation – Round Trip			
	b. Transportation – One Way			
	c. Transportation-Dual Enrollment			
	d. MTA			
	e. Parent*			
(2)	a. Educational Counseling – Individual			
	b. Educational Counseling – Group of			
	c. Counseling – Parent			
(3)	a. Adapted Physical Education – Individual			
	b. Adapted Physical Education – Group of			
	c. Adapted Physical Education – Group of			
(4)	a. Language and Speech Therapy – Individual			
	b. Language and Speech Therapy – Group of 2			
	c. Language and Speech Therapy – Group of 3			
	d. Language and Speech Therapy – Per diem			
	e. Language and Speech - Consultation Rate			
(5)	a. Additional Adult Assistance - Individual (must be authorized on IEP/IFSP)			
	b. Additional Adult Assistance – Group of 2			
	c. Additional Adult Assistance – Group of 3			
(6)	Intensive Special Education Instruction, by credentialed special education teacher			
(7)	a. Occupational Therapy – Individual			

	b. Occupational Therapy – Group of 2			
	c. Occupational Therapy – Group of 3			
	d. Occupational Therapy – Group of 4 - 7			
	e. Occupational Therapy - Consultation Rate			
(9)	Physical Therapy <i>BI - I (Joby)</i>	28 ⁰⁰	hr	
(10)	a. Behavior Intervention – BII <i>BII - II (Macy)</i>	62 ⁰⁰	hr	
	b. Behavior Intervention – BID Director	125 ⁰⁰	hr	
	Provided by:			
(11)	Nursing Services			
(12)	Other: Psychological Services other than Assessment and IEP			
(13)	Home or Hospital Instruction			
(14)	Other			

The parties hereto have executed this Contract by and through their duly authorized agents or representatives. This contract is effective on the 1st day of July 2009 and terminates at 5:00 P.M. on June 30, 2010, unless sooner terminated as provided herein.

CONTRACTOR,		ALBANY UNIFIED SCHOOL DISTRICT	
Nonpublic School/Agency			
By:		By:	
Signature	<i>[Signature]</i> Date <i>7-24-09</i>		Diane Marie, Director of Special Education
Name and Title of Authorized Representative	<i>Fred Balli Bus Dir</i>		Date _____
Notices to CONTRACTOR shall be addressed to: Name <i>BIA</i>		By:	Notices to LEA shall be addressed to: Name: Diane Marie, Director of Special Education
Nonpublic School/Agency Service Provider			Albany Unified School District
Address <i>3229 Elm St # 1</i>			Address: 601 San Gabriel Avenue
City <i>Oakland</i> State <i>CA</i> Zip <i>94604</i>		City: Albany	State: CA Zip: 94706
Phone <i>510.652.7445</i>		Phone: 510-559-6536	
Fax <i>510.652.9288</i>		Fax: 510-559-6543	
Email <i>Fred @ BIA4AUTISM.ORG</i>		Email: <i>diane.marie@albany.k12.ca.us</i>	
Website <i>www.BIA4AUTISM.ORG</i>		Website	

CONFIDENTIAL INFORMATION

NON EDUCATIONAL PLACING AGENCY: (If applicable) _____

CONTRACT TERMS:

1. The pupil's teacher/service provider will hold the following credential/ license: _____ (Generic description, i.e., LH credential).
2. The class size for the pupil will not exceed _____ and/or the therapist/pupil ratio will not exceed _____.
3. The length of the instructional program will be consistent with the Master Contract unless otherwise specified.
4. Authorized educational services as specified in the IEP shall be provided by the CONTRACTOR under other provisions up to the amount specified.
5. Method for complying with statewide standardized assessment requirements: _____
6. Other Provisions (attachments as necessary). Intervention Program implementation
46 weeks of services

A. BASIC EDUCATION PROGRAM (Applies to Nonpublic schools only.)

Number of Days _____ x Per Diem \$ _____ = Total Basic Education Costs (A) \$ _____
(Include extended school year days as appropriate to the pupil's IEP.)

B. DESIGNATED INSTRUCTION AND SERVICES/RELATED SERVICES:

Behavioral Services	SERVICE PROVIDER			TOTAL MINUTES HRLY/PER WEEK/OR SESSION	COST PER SESSION				# OF WKS	ANNUAL MAX TOTAL COST FOR CONTRACT PERIOD
	LEA	NPS/A	OTHER		DLY	WKLY	HRLY	GROUP		
1. Dir/BI0		✓		Up to 4 hrs/month			125		46	6000 ⁻
2. Mng./BI-II		✓		Up to 3 hrs/week			102		46	8556 ⁻
3. Tutor/BI-I		✓		Up to 10.5 hr/week			28		46	13524 ⁻
4.										
5.										
6.										
7.										

MAXIMUM TOTAL RELATED SERVICES COST (B) \$ 28,080⁻
 MAXIMUM TOTAL BASIC EDUCATION AND RELATED SERVICES COST (A+B) \$ _____
 MAXIMUM PER DIEM FOR BASIC EDUCATION AND RELATED SERVICES \$ 26,080⁻

INDIVIDUAL SERVICE AGREEMENT FOR NONPUBLIC, NONSECTARIAN SCHOOL/AGENCY SERVICES

(Education Code sections 56365, 56366, et seq.) (Page 2 of 2)

All terms and conditions of the current Master Contract for Nonpublic, Nonsectarian School/Agency Service (NPS/NPA), hereinafter referred to as the Master Contract, previously executed by the parties hereto, are incorporated herein by reference. The Contractor will implement the Individualized Education Program (IEP) in accordance with this Agreement and the Master Contract, and will request an IEP review prior to any change in the service program. Pursuant to 34 CFR 300.9 and 34 CFR 300.300 parents and legal guardians are allowed, at any time subsequent to the initial provision of special education and related services to revoke their consent for special education and related services for their child /ward. Upon such revocation of consent, the responsible LEA may not continue to implement the child's last agreed upon and implemented IEP. However, the LEA must provide the parent/guardian with a 34 CFR 300.503 prior written notice before ceasing to provide the child with the special education and related services contained in his/her last agreed upon and implemented IEP. The Individual Services agreement attached to the student's last agreed upon IEP will end at the date noticed on the prior written notice and all associated nonpublic , nonsectarian school /agency services will cease as of the noticed date.

Invoices shall be submitted based on actual service provided and attendance standards addressed in the Master Contract.

The parties hereto have executed this contract by and through their duly authorized agents or representatives. This contract is effective on July 1, 2008 and terminates at 5:00 p.m. on April 30, 2010 unless sooner terminated as provided herein.

-CONTRACTOR-

-LOCAL EDUCATIONAL AGENCY-

[Handwritten Signature]

(Authorized Signature) (Date)

Fred Beldi 8/21/09

Laurie Harden, Asst. Supt., Business Services (Type or Print Name) (Date)

BIA (Name of NPS/NPA)

Albany Unified School District (Name of District, SELPA, County Office)

3229 Elm St #1 (Mailing Address)

904 Talbot Avenue (Mailing Address)

Oakland, CA 94609 (City/State/Zip Code)

Albany, CA 94706 (City/State/Zip Code)

CONFIDENTIAL INFORMATION

NON EDUCATIONAL PLACING AGENCY: (If applicable) _____

CONTRACT TERMS:

1. The pupil's teacher/service provider will hold the following credential/ license: _____ (Generic description, i.e., LH credential).
2. The class size for the pupil will not exceed _____ and/or the therapist/pupil ratio will not exceed _____
3. The length of the instructional program will be consistent with the Master Contract unless otherwise specified.
4. Authorized educational services as specified in the IEP shall be provided by the CONTRACTOR under other provisions up to the amount specified.
5. Method for complying with statewide standardized assessment requirements: _____
6. Other Provisions (attachments as necessary). Intervention Program Implementation
4 1/2 weeks of services

A. BASIC EDUCATION PROGRAM (Applies to Nonpublic schools only.)

Number of Days _____ × Per Diem \$ _____ = Total Basic Education Costs (A) \$ _____
(Include extended school year days as appropriate to the pupil's IEP.)

B. DESIGNATED INSTRUCTION AND SERVICES/RELATED SERVICES:

Behavioral Services	SERVICE PROVIDER			TOTAL MINUTES HRLY/PER WEEK/OR SESSION	COST PER SESSION				# OF WKS	ANNUAL MAX TOTAL COST FOR CONTRACT PERIOD
	LEA	NPS/A	OTHER		DLY	WKLY	HRLY	GROUP		
1. Dir/BI-D		✓		Up to 4 hrs/month			125		46	6000-
2. Mng./BI-II		✓		Up to 3 hrs/week			62		46	8556-
3. Tutor/BI-I		✓		Up to 10.5 hr/week			28		46	13524-
4.										
5.										
6.										
7.										

MAXIMUM TOTAL RELATED SERVICES COST (B)
 MAXIMUM TOTAL BASIC EDUCATION AND RELATED SERVICES COST (A+B)
 MAXIMUM PER DIEM FOR BASIC EDUCATION AND RELATED SERVICES

\$ 28080-
 \$ _____
 \$ 28,080-

INDIVIDUAL SERVICE AGREEMENT FOR NONPUBLIC, NONSECTARIAN SCHOOL/AGENCY SERVICES

(Education Code sections 56365, 56366, et seq.) (Page 2 of 2)

PUPIL

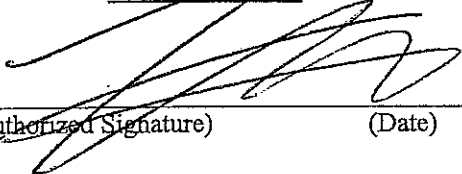
All terms and conditions of the current Master Contract for Nonpublic, Nonsectarian School/Agency Service (NPS/NPA), hereinafter referred to as the Master Contract, previously executed by the parties hereto, are incorporated herein by reference. The Contractor will implement the Individualized Education Program (IEP) in accordance with this Agreement and the Master Contract, and will request an IEP review prior to any change in the service program. Pursuant to 34 CFR 300.9 and 34 CFR 300.300 parents and legal guardians are allowed, at any time subsequent to the initial provision of special education and related services to revoke their consent for special education and related services for their child /ward. Upon such revocation of consent, the responsible LEA may not continue to implement the child's last agreed upon and implemented IEP. However, the LEA must provide the parent/guardian with a 34 CFR 300.503 prior written notice before ceasing to provide the child with the special education and related services contained in his/her last agreed upon and implemented IEP. The Individual Services agreement attached to the student's last agreed upon IEP will end at the date noticed on the prior written notice and all associated nonpublic , nonsectarian school /agency services will cease as of the noticed date.

Invoices shall be submitted based on actual service provided and attendance standards addressed in the Master Contract.

The parties hereto have executed this contract by and through their duly authorized agents or representatives. This contract is effective on July 1, 2008 and terminates at 5:00 p.m. on April 30, 2010 unless sooner terminated as provided herein.

-CONTRACTOR-

-LOCAL EDUCATIONAL AGENCY-



(Authorized Signature) (Date)

(Authorized Signature) (Date)

Fred Baldi 8/21/09

(Type or Print Name) (Date)

Laurie Harden, Asst. Supt., Business Services

(Type or Print Name) (Date)

BIA

(Name of NPS/NPA)

Albany Unified School District

(Name of District, SELPA, County Office)

3229 Elm St #1

(Mailing Address)

904 Talbot Avenue

(Mailing Address)

Oakland, CA 94609

(City/State/Zip Code)

Albany, CA 94706

(City/State/Zip Code)

CONFIDENTIAL INFORMATION

NON EDUCATIONAL PLACING AGENCY: (If applicable) _____

CONTRACT TERMS:

1. The pupil's teacher/service provider will hold the following credential/ license: _____ (Generic description, i.e., LH credential).
2. The class size for the pupil will not exceed _____ and/or the therapist/pupil ratio will not exceed _____.
3. The length of the instructional program will be consistent with the Master Contract unless otherwise specified.
4. Authorized educational services as specified in the IEP shall be provided by the CONTRACTOR under other provisions up to the amount specified.
5. Method for complying with statewide standardized assessment requirements: _____
6. Other Provisions (attachments as necessary). 4 week summer program

A. BASIC EDUCATION PROGRAM (Applies to Nonpublic schools only.)

Number of Days _____ x Per Diem \$ _____ = Total Basic Education Costs (A) \$ _____
 (Include extended school year days as appropriate to the pupil's IEP.)

B. DESIGNATED INSTRUCTION AND SERVICES/RELATED SERVICES:

	SERVICE PROVIDER			TOTAL MINUTES HRLY/PER WEEK/OR SESSION	COST PER SESSION				# OF WKS	ANNUAL MAX TOTAL COST FOR CONTRACT PERIOD
	LEA	NPS/A	OTHER		DLY	WKLY	HRLY	GROUP		
1. O.T.										
2. Lang/Spch										
3. Transport.										
4. Counseling										
5. P.T. Tutor		✓		9 hrs/week			25		4	1008-
6. Manager		✓		3 hrs/week			62		4	744-
7. Director		✓		5 hrs/week			125		4	625-

MAXIMUM TOTAL RELATED SERVICES COST (B) \$ 2377-
 MAXIMUM TOTAL BASIC EDUCATION AND RELATED SERVICES COST (A+B) \$ _____
 MAXIMUM PER DIEM FOR BASIC EDUCATION AND RELATED SERVICES \$ _____

INDIVIDUAL SERVICE AGREEMENT FOR NONPUBLIC, NONSECTARIAN SCHOOL/AGENCY SERVICES

(Education Code sections 56365, 56366, et seq.) (Page 2 of 2)

PUPIL NAM

All terms and conditions of the current Master Contract for Nonpublic, Nonsectarian School/Agency Service (NPS/NPA), hereinafter referred to as the Master Contract, previously executed by the parties hereto, are incorporated herein by reference. The Contractor will implement the Individualized Education Program (IEP) in accordance with this Agreement and the Master Contract, and will request an IEP review prior to any change in the service program. Pursuant to 34 CFR 300.9 and 34 CFR 300.300 parents and legal guardians are allowed, at any time subsequent to the initial provision of special education and related services to revoke their consent for special education and related services for their child /ward. Upon such revocation of consent, the responsible LEA may not continue to implement the child's last agreed upon and implemented IEP. However, the LEA must provide the parent/guardian with a 34 CFR 300.503 prior written notice before ceasing to provide the child with the special education and related services contained in his/her last agreed upon and implemented IEP. The Individual Services agreement attached to the student's last agreed upon IEP will end at the date noticed on the prior written notice and all associated nonpublic , nonsectarian school /agency services will cease as of the noticed date.

Invoices shall be submitted based on actual service provided and attendance standards addressed in the Master Contract.

The parties hereto have executed this contract by and through their duly authorized agents or representatives. This contract is effective on July 20, 2009 and terminates at 5:00 p.m. on Aug 21st 2009 unless sooner terminated as provided herein.

-CONTRACTOR-

-LOCAL EDUCATIONAL AGENCY-

[Signature]
7-27-2009
(Authorized Signature) (Date)

(Authorized Signature) (Date)

Frac Balci
(Type or Print Name) (Date)

Laurie Harden, Asst. Supt., Business Services
(Type or Print Name) (Date)

BIA
(Name of NPS/NPA)

Albany Unified School District
(Name of District, SELPA, County Office)

3229 Elm St #1
(Mailing Address)

904 Talbot Avenue
(Mailing Address)

Oakland, CA 94609
(City/State/Zip Code)


Albany, CA 94706
(City/State/Zip Code)

**ALBANY UNIFIED SCHOOL DISTRICT
BOARD AGENDA BACKUP**

Regular Meeting of September 1, 2009

ITEM: Albany Music Fund Funding Commitment – 2009-10

PREPARED BY: Laurie Harden, Assistant Superintendent, Business Services



TYPE OF ITEM: *Review and Action*

BACKGROUND INFORMATION:

Albany Music Fund has generously committed \$75,500 to the Albany Unified School District. These funds are specifically earmarked for 2009-10 music instruction as follows:

- .4 FTE Grades 4-5 instrumental music instruction
- .2 FTE Grades 6-8 vocal music instruction
- Hourly Rhythm Bound instructor
- Hourly Grades 4-5 instrumental music instruction assistant

FINANCIAL INFORMATION:

\$75,500 for music instruction.

RECOMMENDATION: Accept the funding commitment/donation of \$75,500 from the Albany Music Fund.



August 21, 2009

TO: Marla Stephenson, Superintendent
Albany Unified School District
904 Talbot Avenue
Albany, CA 94706

FR Penny Barthel, President, Albany Music Fund
Tom Rettig, Treasurer, Albany Music Fund

RE Funding Commitment for 2009/2010 School year

Dear Ms. Stephenson:

Albany Music Fund agrees to commit up to \$75,500.00 to Albany Unified School District to fund the following for the 2009/2010 school year:

- .4 FTE grades 4/5 Instrumental music instruction
- .2 FTE grades 6 - 8 Vocal music instruction
- Hourly wage for Rhythm Bound instructor
- Hourly wage for 4/5 Instrumental music instruction assistant


Sincerely,

Penny Barthel
President, Albany Music Fund

**ALBANY UNIFIED SCHOOL DISTRICT
BOARD AGENDA BACKUP**

Regular Meeting of September 1, 2009

ITEM: Actuarial Valuation of Post Employment Benefit Plan

PREPARED BY: Laurie Harden, Assistant Superintendent, Business Services 

TYPE OF ITEM: *Review and Action*

BACKGROUND INFORMATION:

The latest actuarial study from APEX Management Group is enclosed for review and approval by the Board. The Albany Unified School District is required to implement GASB 45 by the end of the 2008-09 fiscal year.

A representative from APEX Management Group will present the report and answer any questions related to the study.

FINANCIAL INFORMATION

The AAL (actuarial accrued liability- Page 1-2) as of July 1, 2008, was \$7,164,000. Based on the current study, the net Transfer Out amount to Fund 20 Reserve for Other Post Employment Benefits was calculated at \$311,000 for the 2008-09 fiscal year (Page 1-4).

The district has already begun funding the liability, although not yet in an irrevocable trust. The balance of Fund 20 as of June 30, 2009, was \$1,186,337.

RECOMMENDATION: Approve the Actuarial Valuation of Post Employment Benefit Plan report.

ALBANY UNIFIED SCHOOL DISTRICT
ACTUARIAL VALUATION OF
POSTEMPLOYMENT BENEFIT PLAN AS OF
JULY 1, 2008

August 04, 2009



A Division of Gallagher Benefit Services, Inc.

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EXECUTIVE SUMMARY

1 - 1

Scope

This report presents the results of the actuarial valuation of the Albany Unified School District ("District") postemployment benefit plan (other than pensions) as of the valuation date of July 1, 2008 under the Governmental Accounting Standards Board Statement No. 45 (GASB 45).

The purpose of the report is to:

- Determine the plan's liabilities as of July 1, 2008,
- Determine the Annual Required Contribution (ARC) and annual OPEB expense for the period July 1, 2008 to June 30, 2009 under GASB Statement No. 45 (GASB 45),
- Provide an estimate of the June 30, 2009 net OPEB obligation; and
- Document actuarial assumptions and plan provisions used in the July 1, 2008 actuarial valuation.

Postemployment Benefits

The District provides postemployment benefits for eligible participants enrolled in the CalPERS plans. The benefits are provided in the form of an explicit subsidy where the District contributes towards the retiree health premiums.

This report relies on the opinion of the CalPERS actuaries that the CalPERS plan is community-rated. Since the CalPERS plan is deemed a community rated plan, the postemployment benefits valued in this report do not include an implicit rate subsidy.

The District also provides a cash benefit for participants opting out of the CalPERS plan. Currently, there is one retiree that chose this option.

Section 7 describes the postemployment benefits and plan provisions.

Methods and Assumptions

GASB 45 allows the use of one of several actuarial cost methods. These cost methods allocate the OPEB costs differently. The method used in this valuation is the **Unit Credit**. This method is the only method allowed under the Financial Accounting Standards Board's corresponding statement, *Statement of Financial Accounting Standards No. 106*.

The valuation results are developed assuming a **discount rate** of 4.50%. Under GASB 45, the discount rate to be used for the valuation is determined based on the long term investment yield on the investments used to finance the payment of benefits. For this valuation it is assumed that postemployment benefits are paid from general assets which generally consist of short-term investments. If the District is considering prefunding or transferring assets to a trust, or equivalent arrangement, in which plan assets are established and dedicated to providing benefits to retirees and beneficiaries in accordance with the terms of the plan, the determination of the discount rate would be based on the nature and mix of current and expected investments. The District should consult with its auditors in selecting an appropriate discount rate. Alternative valuation results are provided in Section 5 assuming discount rates of 6.00% and 8.00% in the

EXECUTIVE SUMMARY

event the District wishes to determine the impact of a change in the discount rate on its annual OPEB expense.

Other critical assumptions used in the actuarial valuation are the health care cost trend rate and participation assumptions. The health care cost trend assumption is used to project the cost of health care to future years. The valuation uses a **health care cost trend rate assumption** of 11.0% in the year July 1, 2008 to June 30, 2009 grading down by 0.5% each year until an ultimate health care cost trend rate is reached in 2021 of 5.0%.

The **participation assumption** is the assumed percentage of future retirees that participate and enroll in the health plan. In absence of any recent postemployment plan participant enrollment data, the participation assumption used in this valuation is 100% for medical, dental and vision benefits. The participation assumption is based on the subsidies and participant's share of the cost of postemployment health plan. The District should monitor the postemployment plan participant enrollment in future years in case this assumption needs to be revised.

Liabilities

Future benefits include all benefits estimated to be payable to plan members as a result of their service through the valuation date and their expected future service. The **present value of future benefits** as of the valuation date is the present value of the cost to finance benefits payable in the future, discounted to reflect the expected effects of the time value of money and the probabilities of payment. The present value of future benefits for the District's postemployment benefit plan as of July 1, 2008 is \$14,197,000.

The **actuarial accrued liability** is the present value of future benefits which is attributable to past service. The actuarial accrued liability of the District's postemployment benefit plan as of July 1, 2008 is \$7,164,000. The **unfunded actuarial accrued liability** is the difference between the actuarial accrued liability and the actuarial value of plan assets. **Plan assets** are financial assets that are segregated and restricted in a trust (or equivalent arrangement). Assets in this trust are dedicated to providing benefits to plan participants and are legally protected from creditors of employers. Since there are no plan assets, the unfunded actuarial accrued liability for the District's postemployment benefit plan is the same as the actuarial accrued liability, \$7,164,000.

The **normal cost** is the portion of the present value of future benefits that is allocated to the current year for active plan members. The normal cost for the active members of the District's postemployment benefit plan for the period July 1, 2008 to June 30, 2009 is \$447,000.

The table below summarizes the District's postemployment benefit plan liabilities.

	Postemployment Benefit Plan
Present Value of Future Benefits	\$14,197,000
Accrued Actuarial Liability	\$7,164,000
Normal Cost	\$447,000

EXECUTIVE SUMMARY

1 - 3

Annual OPEB Cost and Annual Required Contribution

The major component of the **annual OPEB cost** is the **annual required contribution (ARC)**. The ARC is the sum of the normal cost and the amortization of the unfunded actuarial accrued liability. The unfunded actuarial accrued liability is amortized over the maximum allowable period of 30 years on an open basis. The ARC for the District's postemployment benefit plan for the period July 1, 2008 to June 30, 2009 is \$763,000 which is comprised of the normal cost (plus interest) of \$467,000 and amortization of unfunded actuarial accrued liability (plus interest) of \$296,000.

The other components of the annual OPEB cost are one year's interest on the **net OPEB obligation** (defined below) at the beginning of the year and **adjustment to the ARC**. The adjustment to the ARC is the discounted present value of the net OPEB obligation at the beginning of the year. Since the District is adopting GASB 45 standards this year, the net OPEB obligation at the beginning of year is zero and the annual OPEB cost is equal to the ARC.

The table below summarizes the annual OPEB cost for the District's postemployment benefit plan for the period July 1, 2008 to June 30, 2009.

	Annual OPEB Cost
ARC	\$763,000
Interest on Net OPEB Obligation	\$0
Adjustment to ARC	\$0
Total	\$763,000

It is important to note that GASB 45 does not require the District to prefund an amount equal to the ARC. The ARC represents an accounting expense. The District should report the OPEB expense for the year equal to the annual OPEB cost.

Net OPEB Obligation and Recognition in Financial Statements

The **net OPEB obligation (NOO)** is the cumulative difference between the annual OPEB cost and the employer's contributions to the plan since the District's adoption date of GASB 45. A positive (negative) year-end balance in the net OPEB obligation should be recognized as a year-end liability (asset) in the District's financial statements.

An estimate of the year-end net OPEB obligation is \$311,000. Since this is considered to be the transition year, the net OPEB obligation at the beginning of year is zero. The District's contribution is estimated to be the pay-as-you-go or expected postemployment benefit payments less participant contributions from the valuation for the period July 1, 2008 to June 30, 2009. The development of the year-end net OPEB obligation is below.

EXECUTIVE SUMMARY

	Postemployment Benefit Plan
Net OPEB Obligation – Beginning of Year	\$0
Annual OPEB Cost	\$763,000
Employer Contributions*	\$452,000
Increase in Net OPEB Obligation	\$311,000
Net OPEB Obligation – End of Year	\$311,000
* Estimated using pay as you go	

Under GASB 45, an employer has made contributions if the employer has done one or more of the following:

- 1) Made payments of benefits directly to or on behalf of a retiree or beneficiary
- 2) Made premium payments to an insurer
- 3) Irrevocably transferred assets to a trust, or equivalent arrangement, in which plan assets are dedicated to providing benefits to retirees and beneficiaries in accordance with the terms of the plan and are legally protected from creditors of the employer or plan administrator.

Earmarking of employer assets or other means of financing that do not meet the conditions above does not constitute employer contributions.

The actual year-end net OPEB obligation can be determined once the contribution information is available later in the year. If the District needs assistance in determining the year-end net OPEB obligation, they would be advised to contact APEX Management Group.

Reconciliation to Prior Valuation

APEX Management Group has not provided the District with a prior valuation.

ACTUARIAL CERTIFICATION

2 - 1

Actuarial Certification

At the request of Albany Unified School District, APEX Management Group, a division of Gallagher Benefit Services, Inc., has completed an actuarial valuation as of July 1, 2008 under Statement No. 45 of the Governmental Accounting Standards Board (GASB 45). The calculations derived for this report have been made on a basis consistent with our understanding of GASB 45. The valuation has been conducted in accordance with generally accepted actuarial principles and practices. The results of this report are to be used solely for the purpose of meeting employer financial accounting requirements.

In preparing the results of this report, we have relied on employee data, plan information and claims data provided by Albany Unified School District. While the scope of the engagement did not call for us to perform an audit or independent verification of this information, we reviewed it for reasonableness. The accuracy of the results presented in the report is dependent upon the accuracy and completeness of the underlying information.

The undersigned is a member of the American Academy of Actuaries and meets the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

Respectfully submitted,
APEX Management Group



Don Henson, FSA, MAAA
Consulting Actuary
August 04, 2009
(609) 452-2488

VALUATION RESULTS

The following tables provide a summary of plan participant information and the present value of future benefits by source and type as of July 1, 2008.

NUMBER OF PARTICIPANTS	
Actives (Fully Eligible)	70
Actives (Not Fully Eligible)	382
Retirees	82
TOTAL	534

**POSTEMPLOYMENT
BENEFIT PLAN**

PRESENT VALUE OF FUTURE BENEFITS (PVFB)

BY EMPLOYEE TYPE	
Actives (Fully Eligible)	\$2,160,000
Actives (Not Fully Eligible)	\$8,652,000
TOTAL ACTIVES	\$10,812,000
Retirees	\$3,385,000
TOTAL	\$14,197,000

BY BENEFIT	
Medical Subsidy	\$13,400,000
Dental Subsidy	\$579,000
Vision Subsidy	\$218,000
TOTAL	\$14,197,000

BY SUBSIDY TYPE	
Explicit Subsidy	\$14,197,000
Implicit Subsidy	\$0
TOTAL	\$14,197,000

BY AGE	
Actives (<65)	\$6,847,000
Actives (65+)	\$3,965,000
TOTAL ACTIVES	\$10,812,000
Retirees (<65)	\$1,873,000
Retirees (65+)	\$1,511,000
TOTAL RETIREES	\$3,384,000
TOTAL	\$14,197,000

VALUATION RESULTS

The following tables provide the actuarial accrued liability by source and type and unfunded actuarial accrued liability as of July 1, 2008.

ACTUARIAL ACCRUED LIABILITY (AAL)		POSTEMPLOYMENT BENEFIT PLAN
BY EMPLOYEE TYPE		
Actives (Fully Eligible)		\$1,757,000
Actives (Not Fully Eligible)		\$2,022,000
TOTAL ACTIVES		\$3,779,000
Retirees		\$3,385,000
TOTAL		\$7,164,000
BY BENEFIT		
Medical Subsidy		\$6,750,000
Dental Subsidy		\$306,000
Vision Subsidy		\$108,000
TOTAL		\$7,164,000
BY SUBSIDY TYPE		
Explicit Subsidy		\$7,164,000
Implicit Subsidy		\$0
TOTAL		\$7,164,000
BY AGE		
Actives (<65)		\$2,236,000
Actives (65+)		\$1,543,000
TOTAL ACTIVES		\$3,779,000
Retirees (<65)		\$1,873,000
Retirees (65+)		\$1,511,000
TOTAL RETIREES		\$3,384,000
TOTAL		\$7,164,000
UNFUNDED ACTUARIAL ACCRUED LIABILITY (UAAL)		
Actuarial Accrued Liability		\$7,164,000
Plan Assets		\$0
Unfunded Actuarial Accrued Liability		\$7,164,000

VALUATION RESULTS

The following tables provide the annual required contribution ("ARC") for the period July 1, 2008 to June 30, 2009 and an estimate of the net OPEB obligation as of June 30, 2009.

POSTEMPLOYMENT BENEFIT PLAN	
ANNUAL REQUIRED CONTRIBUTION (ARC)	
Normal Cost	\$447,000
Interest on Normal Cost	\$20,000
Amortization Payment	\$283,000
Interest on Amortization Payment	\$13,000
TOTAL	\$763,000

NET OPEB OBLIGATION	
Net OPEB Obligation - Beginning of Year	\$0
ARC	\$763,000
Interest on prior year NOO	\$0
Adjustment to ARC	\$0
Annual OPEB Cost	\$763,000
Employer Contributions *	\$452,000
Increase in Net OPEB Obligation	\$311,000
Net OPEB Obligation - End of Year	\$311,000
Percentage of OPEB Cost Contributed	59.24%

* Estimated using expected pay-as-you-go cost.

Employee Group	PVFB	AAL
SELPA	\$30,500	\$4,400

TREND RATE SENSITIVITY

4 - 1

The following exhibit illustrates the impact of a 1% change in the health care trend rates:

		POSTEMPLOYMENT BENEFIT PLAN	
		Plus 1%	Minus 1%
VALUATION RESULTS			
ACTUARIAL ACCRUED LIABILITY (AAL)			
TOTAL		\$8,114,000	\$6,475,000
UNFUNDED ACTUARIAL ACCRUED LIABILITY (UAAL)			
TOTAL		\$8,114,000	\$6,475,000
ANNUAL REQUIRED CONTRIBUTION (ARC)			
Normal Cost		\$543,000	\$368,000
Interest on Normal Cost		\$24,000	\$17,000
Amortization Payment		\$320,000	\$256,000
Interest on Amortization Payment		\$14,000	\$12,000
TOTAL		\$901,000	\$653,000
IMPACT OF TREND CHANGE			
ACTUARIAL ACCRUED LIABILITY (AAL)			
TOTAL		\$950,000	(\$689,000)
% CHANGE		13.26%	-9.62%
TOTAL		\$950,000	(\$689,000)
% CHANGE		13.26%	-9.62%
Normal Cost		\$96,000	(\$79,000)
Interest on Normal Cost		\$4,000	(\$3,000)
Amortization Payment		\$37,000	(\$27,000)
Interest on Amortization Payment		\$1,000	(\$1,000)
TOTAL		\$138,000	(\$110,000)
% CHANGE		18.09%	-14.42%

DISCOUNT RATE SENSITIVITY

The following exhibit provides valuation results at 6.00% and 8.00% discount rates:

POSTEMPLOYMENT BENEFIT PLAN		
	Discount Rate 6.00%	Discount Rate 8.00%
VALUATION RESULTS		

ACTUARIAL ACCRUED LIABILITY (AAL)		
TOTAL	\$6,119,000	\$5,078,000

UNFUNDED ACTUARIAL ACCRUED LIABILITY (UAAL)		
TOTAL	\$6,119,000	\$5,078,000

ANNUAL REQUIRED CONTRIBUTION (ARC)		
Normal Cost	\$337,000	\$241,000
Interest on Normal Cost	\$20,000	\$19,000
Amortization of Unfunded Accrued Liability	\$291,000	\$302,000
Interest on Amortization	\$17,000	\$24,000
TOTAL	\$665,000	\$586,000

IMPACT OF DISCOUNT RATE CHANGE

ACTUARIAL ACCRUED LIABILITY (AAL)		
TOTAL	(\$1,045,000)	(\$2,086,000)
% CHANGE	-14.59%	-29.12%

TOTAL	(\$1,045,000)	(\$2,086,000)
% CHANGE	-14.59%	-29.12%

Normal Cost	(\$110,000)	(\$206,000)
Interest on Normal Cost	\$0	(\$1,000)
Amortization Payment	\$8,000	\$19,000
Interest on Amortization Payment	\$4,000	\$11,000
TOTAL	(\$98,000)	(\$177,000)
% CHANGE	-12.84%	-23.20%

20-YEAR SUMMARY OF PROJECTED CASHFLOWS

6 - 1

The following exhibit provides the expected cash flows for the postemployment benefit plan based on the current population, plan provisions and actuarial assumptions:

Year	Medical	Dental, Vision	Net Benefit Payments
1 st Year	\$406,000	\$46,000	\$452,000
2 nd Year	\$486,000	\$52,000	\$538,000
3 rd Year	\$517,000	\$52,000	\$569,000
4th Year	\$584,000	\$56,000	\$640,000
5th Year	\$570,000	\$47,000	\$617,000
6th Year	\$590,000	\$47,000	\$637,000
7th Year	\$614,000	\$46,000	\$660,000
8th Year	\$572,000	\$39,000	\$611,000
9th Year	\$567,000	\$37,000	\$604,000
10th Year	\$568,000	\$35,000	\$603,000
11th Year	\$595,000	\$37,000	\$632,000
12th Year	\$645,000	\$40,000	\$685,000
13th Year	\$686,000	\$42,000	\$728,000
14th Year	\$704,000	\$41,000	\$745,000
15th Year	\$694,000	\$37,000	\$731,000
16th Year	\$720,000	\$39,000	\$759,000
17th Year	\$733,000	\$38,000	\$771,000
18th Year	\$731,000	\$35,000	\$766,000
19th Year	\$775,000	\$38,000	\$813,000
20th Year	\$806,000	\$39,000	\$845,000

SUMMARY OF PLAN PROVISIONS

Eligibility

Albany Teachers Association (ATA)

Employees must be age 55 with at least 10 years of service in the District and retiring into the State Teachers' Retirement System (STRS) or Public Employees Retirement System (PERS).

Administrators (Certified/Classified)

Certificated employees must be age 55 with at least 7 years of service in order to be eligible for benefits. Classified employees must be age 50 with the same years of service requirements as Certificated employees. All employees must be currently drawing retirement from STRS or PERS. As of July 1, 2008, the eligibility for Classified employees has been changed to age 55 and 7 years of service. There are currently four active Classified employees and these report results do not reflect the change in eligibility for this group.

California School Employees Association (CSEA)

Effective July 1, 2008, employees must be 58 with 15 years of service in the District and retiring from a public retirement system such as STRS or PERS.

Effective July 1, 2012, employees must be age 60 with 15 years of service in the District and retiring from a public retirement system such as STRS or PERS.

Service Employees International Union (SEIU)

Option 1. Employees must at least age 55 with 15 years of service in the District and participating in the District's health, dental, and vision program to be eligible to participate in the benefit program of his/her choice.

Option 2. Employees must be age 60 with 10 years of service in the District and participating in the District's health program to be eligible to participate in the health benefit program of his/her choice.

Benefit Design

Medical/ Prescription Drug

Retirees receive benefits contracted through CalPERS. A description of each plan available is provided below:

Blue Shield HMO

Deductible	\$0
Coinsurance	100%
Out of Pocket Maximum (2X Family)	\$1,500
Preventive Care Copayment	\$0
E.R. Copayment	\$50
Office Visit Copayment	\$15
Rx Drug Copay	Retail - \$5, Mail Order - \$10
Generic	Retail - \$15, Mail Order - \$25
Brand	Retail - \$45, Mail Order - \$75
Non-Formulary	

SUMMARY OF PLAN PROVISIONS

Kaiser Permanente

Deductible	\$0
Coinsurance	100%
Out of Pocket Maximum (2X Family)	\$1,500
Preventive Care Copayment	\$15
E.R. Copayment	\$50
Office Visit Copayment	\$15
Rx Drug Copay	Generic - \$5, Brand - \$15

PERS Care

	In-Network	Out-of-Network
Deductible (2X Family)	\$500	
Coinsurance	90%	60%
Out of Pocket Maximum (2X Family)	\$2,000	None
Inpatient Admission Copayment	\$250	\$250
Emergency Room Copayment	\$50	\$50
Office Visit Copayment	\$20	N/A
Rx Drug Copay	Retail - \$5, Mail Order - \$10	
Generic	Retail - \$15, Mail Order - \$25	
Preferred Brand	Retail - \$45, Mail Order - \$75	
Non-Preferred Brand		

PERS Choice

	In-Network	Out-of-Network
Deductible (2X Family)	\$500	
Coinsurance	80%	60%
Out of Pocket Maximum (2X Family)	\$3,000	None
Emergency Room Copayment	\$50	\$50
Office Visit Copayment/Coinsurance	\$20	N/A
Rx Drug Copay	Retail - \$5, Mail Order - \$10	
Generic	Retail - \$15, Mail Order - \$25	
Preferred Brand	Retail - \$45, Mail Order - \$75	
Non-Preferred Brand		

PERS Select*

	In-Network	Out-of-Network
Deductible (2X Family)	\$500	
Coinsurance	80%	60%
Out of Pocket Maximum (2X Family)	\$3,000	None
Emergency Room Copayment	\$50	\$50
Office Visit Copayment	\$20	N/A
Rx Drug Copay	Retail - \$5, Mail Order - \$10	
Generic	Retail - \$15, Mail Order - \$25	
Preferred Brand	Retail - \$45, Mail Order - \$75	
Non-Preferred Brand		

*Only available if employee resides in specific county

SUMMARY OF PLAN PROVISIONS

Dental

Retirees over 65 receive benefits contracted directly through Delta Dental and are provided the benefit on a fully contributory basis.

A summary of the key plan design features for each plan is provided in the tables below:

Delta – PPO (Actives & Eligible Retirees Under 65 or 66)

	In-Network	Out-of-Network
Annual Maximum (.5X Dental Accident)		\$2,000
Preventive Coinsurance		70-100%
Basic Coinsurance		70-100%
Restorative Coinsurance		70-100%
Prosthodontic Services		50%
Dental Accident Services		100%
Orthodontic Coinsurance		Not covered

Delta – PPO (Retirees Over 65 or 66)

	In-Network	Out-of-Network
Annual Maximum (.5X Dental Accident)		\$2,000
Preventive Coinsurance		70-100%
Basic Coinsurance		70-100%
Restorative Coinsurance		70-100%
Prosthodontic Services		50%
Dental Accident Services		100%
Orthodontic Coinsurance		Not covered

Vision

Retirees over 65 are provided a vision insurance benefit on a fully contributory basis.

A summary of the key plan design features for each plan is provided in the tables below:

	In-Network	Out-of-Network
Limits		
Examination		Once every 12 months
Frames		Once every 12 months
Prescription/Contact Lenses		Once every 12 months
Copayments		
Examination	\$5	n/a
Prescription Lenses	\$5	n/a
Frames	\$5	n/a
Contact Lenses	none	n/a

Cash in Lieu

Employees who do not choose to receive medical coverage from the District receive \$125 per month. They will no longer be eligible to receive this benefit once they attain Medicare eligibility.

SUMMARY OF PLAN PROVISIONS

7 - 4

Participant Contributions

Upon meeting eligibility, the District pays 100% of the premiums for medical, dental and vision coverage for both ATA and CSEA retirees and their spouses. Eligible SEIU employees under the Option 1 benefit plan, hired prior to January 1, 2005, receive \$400 monthly for medical and 100% of dental and vision premiums. Eligible SEIU employees and spouses under the Option 2 benefit plan, hired prior to January 1, 2005, receive \$200 for medical and 50% of dental and vision premiums. SEIU employees hired after January 1, 2005 do not receive any postretirement benefits. Eligible administrative employees (Certificated and Classified) receive 100% of the level provided to them at retirement. Currently the maximum subsidy provided is the two party premiums for the CalPERS Blue Shield plan.

Once a retiree attains Medicare eligibility, they are provided with a minimum contribution of \$101 from the District. The subsidy applies to all employment groups.

It should be noted that one Superintendent receives lifetime medical, dental and vision insurance benefits for him and his spouse.

The full monthly premium amounts as of 1/1/2009 to 12/31/2009 provided by Albany USD are detailed in the tables below:

Medical - Pre 65 Retirees

Rate Tier	Blue Shield	Kaiser	PERS Choice	PERS Select	PERS Care
Employee/Retiree Only	\$560.57	\$508.30	\$482.48	\$453.16	\$749.83
Employee/Retiree + 1	\$1,121.14	\$1,016.60	\$964.96	\$906.32	\$1,499.66
Employee/Retiree + 2	\$1,457.48	\$1,321.58	\$1,254.45	\$1,178.22	\$1,949.56

Medical - Medicare Eligible Retirees

Rate Tier	Blue Shield	Kaiser	PERS Choice	PERS Select	PERS Care
Retiree Only	\$304.66	\$280.16	\$349.11	\$349.11	\$404.60
Retiree + 1	\$609.32	\$560.32	\$698.22	\$698.22	\$809.20
Retiree + 2	\$913.98	\$840.48	\$1,047.33	\$1,047.33	\$1,213.80

Dental Benefit

Rate Tier	Delta Dental
Retiree Only	\$49.66
Retiree + 1	\$88.97
Retiree + Family	\$125.66

Vision Benefit

Rate Tier	Vision Service Plan
Retiree Only	\$25.89
Retiree + 1 or more	\$25.89

SUMMARY OF ACTUARIAL ASSUMPTIONS

8 - 1

Valuation Date

July 1, 2008

Discount Rate

A 4.50% annual discount rate is used.

Census Data

The census data was provided by the District as of May 2009.

Actuarial Cost Method

Projected Unit Credit with benefits attributed from the date of hire to expected retirement age.

Amortization Method

The Unfunded Actuarial Accrued Liability is amortized over the maximum acceptable period of 30 years on an open basis. It is calculated assuming a level percentage of projected payroll.

Health Care Cost Trend Rate

The following annual trend rates are applied on a select and ultimate basis:

Benefit	Select	Ultimate
Pre 65 Medical	11.0%	5.0%
Post 65 Subsidy*	3.0%	3.0%
Dental & Vision	5.0%	5.0%

*Assumed to increase with CPI

Select trends are reduced 0.5% each year until reaching the ultimate trend.

Per Capita Health Claim Cost

Per capita health claim costs are equal to the fully-insured premium rates. This report relies on the opinion of the CalPERS actuaries that the CalPERS plan is community-rated.

Plan Election

It is assumed that future retirees enroll in the CalPERS plan rather than take the cash benefit.

Retiree Contributions

Retiree contributions are assumed to increase with healthcare cost trend.

Mortality

RP-2000 Table, applied on a gender-specific basis

SUMMARY OF ACTUARIAL ASSUMPTIONS

8 - 2

Retirement Age

The probability of retirement has been developed based on both CalSTRS Comprehensive Annual Financial Report as of June 30, 2008, and the CalPERS OPEB Assumption Models using assumptions for school districts. Sample retirement ages and associated probabilities are as follows:

CalSTRS Age	Under 30 Years		Over 30 Years	
	Male	Female	Male	Female
55	2.7%	4.5%	8.0%	9.0%
56	3.4%	5.4%	11.8%	13.4%
57	4.1%	6.3%	15.6%	17.8%
58	4.9%	7.2%	19.4%	22.2%
59	5.6%	8.1%	23.2%	26.6%
60	6.3%	9.0%	27.0%	31.0%
61	7.7%	10.1%	27.6%	31.2%
62	9.2%	11.2%	28.2%	31.4%
63	10.6%	12.2%	28.8%	31.6%
64	12.1%	13.3%	29.4%	31.8%
65	13.5%	14.4%	30.0%	32.0%
66	30.8%	31.5%	44.0%	45.6%
67	48.1%	48.6%	58.0%	59.2%
68	65.4%	65.8%	72.0%	72.8%
69	82.7%	82.9%	86.0%	86.4%
70	100.0%	100.0%	100.0%	100.0%

CalPERS

Attained Age	Retirement Rates	
	10 Years of Service	25 Years of Service
50	0.71%	1.31%
55	3.84%	7.07%
56	3.14%	5.78%
57	3.37%	6.20%
58	4.02%	7.39%
59	4.57%	8.42%
60	7.29%	13.42%
61	7.21%	13.28%
62	15.12%	27.84%
63	13.63%	25.10%
64	10.60%	19.51%
65	17.97%	33.08%
70	13.08%	24.08%

SUMMARY OF ACTUARIAL ASSUMPTIONS

Termination

The rate of withdrawal for reasons other than death and retirement has been developed from the CalPERS OPEB Assumption Model and the CalSTRS Comprehensive Annual Financial Report as of June 30, 2008. The annual termination probability is dependent on an employee's age, gender, and years of service. Sample probabilities of withdrawal are provided in the table below:

CalSTRS

Male - Entry Ages					
Duration	Under 25	25-29	30-34	40-44	45+
1	13.0%	12.5%	13.0%	13.0%	14.0%
2	9.0%	7.7%	9.0%	9.0%	10.0%
3	6.0%	6.0%	6.5%	6.5%	7.0%
4	4.4%	4.8%	5.0%	5.0%	4.0%
5	3.9%	3.6%	3.0%	3.0%	3.0%
10	2.0%	2.0%	2.0%	2.0%	0.0%
15	1.1%	1.1%	1.1%	0.0%	0.0%
20	0.6%	0.6%	0.6%	0.0%	0.0%
25	0.4%	0.5%	0.0%	0.0%	0.0%

Female - Entry Ages					
Duration	Under 25	25-29	30-34	40-44	45+
1	10.0%	11.0%	11.0%	10.5%	10.5%
2	7.2%	8.5%	7.5%	7.0%	7.0%
3	6.3%	7.0%	6.0%	5.5%	5.5%
4	5.8%	6.0%	4.5%	4.0%	3.0%
5	5.5%	5.3%	3.8%	3.3%	2.5%
10	2.3%	1.8%	1.3%	1.3%	0.0%
15	1.0%	0.9%	0.9%	0.0%	0.0%
20	0.5%	0.5%	0.0%	0.0%	0.0%
25	0.3%	0.4%	0.0%	0.0%	0.0%

CalPERS

Termination Rates with 5 Years of Service		
Entry Age	With Refund	With Vested Deferred Benefits
20	3.47%	5.91%
25	3.11%	5.31%
30	2.76%	4.70%
35	2.40%	4.10%
40	2.05%	3.49%
45	1.69%	0.00%
50	1.34%	0.00%
55	0.98%	0.00%
60	0.63%	0.00%
65	0.27%	0.00%
70	0.04%	0.00%

SUMMARY OF ACTUARIAL ASSUMPTIONS

8 - 4

Plan Participation Percentage

It is assumed that 100% of all future retirees and their dependents who are eligible for benefits participate in the postemployment medical, dental and vision benefit plans.

Spousal Coverage

The assumed number of eligible spouses is based on the current census information.

Salary Increase Assumption

3.25% per Annum

Medicare Part D Prescription Drug Subsidy

Based on GASB Technical Bulletin No. 2006-1, an employer should apply the measurement requirements of GASB Statement 45 to determine the actuarial accrued liabilities, the annual required contribution of the employer, and the annual OPEB cost *without reduction* for RDS payments. For this reason, we have excluded the Medicare Part D employer subsidy from this valuation.

CENSUS SUMMARY

A summary of the current active employee and retired population for the District is provided in the tables below:

Age Group	ACTIVE POPULATION			RETIRED EMPLOYEES*
	Fully Eligible	Not Fully Eligible	Total*	
<40	0	142	142	0
40-44	0	59	59	0
45-49	0	58	58	0
50-54	2	72	74	1
55-59	32	37	69	9
60-64	26	11	37	28
65-69	7	3	10	19
70-74	3	0	3	10
75-79	0	0	0	4
80-84	0	0	0	8
85+	0	0	0	3
Total	70	382	452	82

* Does not include 14 SEIU employees hired after January 1, 2005

** Currently receiving medical, dental or vision insurance subsidies from the District

A summary of the current active employees based on years of service is provided in the table below:

Age	0-4	5-9	10-14	15-19	20-24	25-29	30+	Total
<40	110	29	2	1	0	0	0	142
40-44	38	7	8	6	0	0	0	59
45-49	36	12	5	3	2	0	0	58
50-54	22	21	11	9	8	3	0	74
55-59	16	19	6	11	6	5	6	69
60-64	6	1	6	5	4	6	9	37
65-69	3	0	0	2	2	0	3	10
70-74	0	0	0	1	0	0	2	3
75-79	0	0	0	0	0	0	0	0
80-84	0	0	0	0	0	0	0	0
85+	0	0	0	0	0	0	0	0
Total	231	89	38	38	22	14	20	452

**SUMMARY OF GOVERNMENTAL ACCOUNTING STANDARDS BOARD
STATEMENTS No. 43 and No. 45**

Applicability of Accounting Standards

The Governmental Accounting Standards Board (GASB) released Statement No. 43 – Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans (“GASB 43”) in April 2004 and Statement No. 45 – Accounting and Financial Reporting by Employers for Postemployment Benefit Plans Other Than Pension Plans (“GASB 45”) in June 2004. These two statements establish uniform accounting and financial reporting standards for state and local governmental entities related to postemployment benefits other than pensions (“OPEB”).

The required effective date for adoption of the standards by an employer varies depending on their total annual revenue. For the purposes of defining the effective date of the standards, GASB 43 and 45 use the terms *phase 1 government, phase 2 government, and phase 3 government*. The following table shows the definition of the three phases for plans and employers and their respective effective dates. The employer is required to report under the standards no later than the first fiscal year beginning after the date shown.

Phase	Total Annual Revenues	Plans	Employers
1	\$100,000,000 or more	12/15/05	12/15/06
2	\$10,000,000 - \$100,000,000	12/15/06	12/15/07
3	Less than \$10,000,000	12/15/07	12/15/08

Actuarial Cost Methods

One of the following actuarial cost methods can be used: Unit Credit, Entry Age Normal, Attained Age, Aggregate, Frozen Entry Age, or Frozen Attained Age. These methods can be used on a service (level dollar) or earnings (level percentage) basis.

Calculation Definitions

- Actuarial Accrued Liability (“AAL”) – The AAL is the portion of the actuarial present value of the total projected benefits allocated to years of employment prior to the measurement date.
- Unfunded Actuarial Accrued Liability (“UAAL”) – The UAAL is the difference between the AAL and the actuarial value of plan assets.

Reporting Requirements

- Annual Required Contribution (“ARC”) – The ARC is equal to the normal cost and the amortization of the Unfunded Actuarial Accrued Liability plus interest. The normal cost is equal to the actuarial present value (“APV”) allocated to one year of service.
- Net OPEB Obligation (“NOO”) – The NOO is the cumulative difference between the ARC and employer’s contributions to the plan. For unfunded plans, the employer’s contribution would be equal to the annual benefit payments less employee contributions. At transition, the NOO may be set at zero.
- Required Supplementary Information (“RSI”) – The RSI will require historical trend information from the last three valuations, including disclosure information about the

**SUMMARY OF GOVERNMENTAL ACCOUNTING STANDARDS BOARD
STATEMENTS No. 43 and No. 45**

10 - 2

UAAL and the progress in funding the plan. At transition, the RSI may include only the first year of information.

Disclosures


The following information is required to be disclosed:

- Plan description, including:
 - Type of employer – single employer, multiple-employer, etc.
 - Classes of employees covered and the number of plan members
 - Brief description of benefit provisions
- Summary of significant accounting policies, including a brief description of how fair value of investments is determined.
- Contributions and reserves, including:
 - Authority under which the obligations of plan members, employer(s), and other contributing entities who contribute to the plan are established or may be amended.
 - Funding policy.
 - Required contribution rates of actives and retirees in accordance with the funding policy.
 - Brief description of the terms of any long-term contracts for contributions to the plan and disclosure of the amounts outstanding at the reporting date.
 - The balance in the plan's legally required reserves at the reporting date.
- Funded status and progress
 - Information about the funded status as of the most recent valuation date, including:
 - Actuarial Valuation Date
 - Actuarial Value of Assets
 - Actuarial Accrued Liability ("AAL")
 - Total Unfunded Actuarial Accrued Liability ("UAAL")
 - Funded ratio – actuarial value of assets as a percentage of the actuarial accrued liability
 - Annual Covered Payroll
 - Ratio of Unfunded Actuarial Liability to Annual Covered Payroll
- Disclosure of information about actuarial methods and assumptions used in valuations on which reported information about the ARC and the funded status and funding progress of OPEB plans are based.

**ALBANY UNIFIED SCHOOL DISTRICT
BOARD AGENDA BACKUP**

Regular Meeting of September 1, 2009

ITEM: **BOARD POLICY 2nd READING AND ADOPTION
SECTION 7000 – FACILITIES**

PREPARED BY: Marla Stephenson, Superintendent 

TYPE OF ITEM: **Action Item**

BACKGROUND INFORMATION:

Per Education Code the Governing Board shall adopt written policies to convey its expectations for actions that will be taken in the district, clarify roles and responsibilities of the Board and Superintendent, and communicate Board philosophy and positions to the students, staff, parents/guardians and the community. Board policies are binding on the district to the extent that they do not conflict with federal or state law and are consistent with the district's collective bargaining agreements.

FINANCIAL INFORMATION:

No fiscal impact

RECOMMENDATION:
It is recommended that the Governing Board adopt Section 7000 - Facilities

CONCEPTS AND ROLES (continued)

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

(cf. 3311 - Bids)

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

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*

Facilities

BP 7110(a)

FACILITIES MASTER PLAN

Note: Legal requirements for facilities plans, including Education Code 16011, 16322, and 17017.5, vary depending on the funding source and type of project. In addition, 5 CCR 14001 requires that educational facilities planned by school districts be master-planned to provide for maximum site enrollment. 5 CCR 14030 delineates detailed standards for developing plans for the design and construction of school facilities. All school districts must comply with these standards, whether a project is state funded or locally funded.

The Board of Education 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.

(cf. 0000 - Vision)

(cf. 7000 - Concepts and Roles)

(cf. 7111 - Evaluating Existing Buildings)

(cf. 7131 - Relations with Local Agencies)

(cf. 7210 - Facilities Financing)

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.

(cf. 1220 - Citizen Advisory Committees)

Note: As added by AB 1367 (Ch. 396, Statutes of 2001), Government Code 65352.2 requires the Board to provide a copy of any facilities master plan or other long-range facilities plan to the city or county agency or planning commission with jurisdiction over district land-use issues as specified below.

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)

FACILITIES MASTER PLAN (continued)

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)

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>

Facilities

AR 7111(a)

EVALUATING EXISTING BUILDINGS

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

(cf. 0410 - Nondiscrimination in District Programs and Activities)
(cf. 3511 - Energy and Water Management)
(cf. 3514 - Environmental Safety)
(cf. 3515 - Campus Security)
(cf. 3516 - Emergencies and Disaster Preparedness Plan)
(cf. 3517 - Facilities Inspection)

In addition, the Superintendent or designee shall regularly calculate the capacity of existing school buildings to adequately house the district's current students and projected enrollments.

Any identified needs for repair, modernization, or construction shall be incorporated into the district's facilities planning process.

(cf. 7110 - Facilities Master Plan)

Note: Education Code 17071.10-17071.40 require districts wishing to participate in the state's School Facility Program to submit to the State Allocation Board a one-time report of existing school building capacity when the district applies for funding. Education Code 17071.25 and the implementing regulations of the State Allocation Board, 2 CCR 1859-1859.106, set forth the formula for calculating the building capacity. The district's use of portable classrooms and year-round programs are two of the several factors used in the calculation. The calculations contained in the district's report will be used as the baseline for eligibility determinations pursuant to the funding program.

Structural Safety

Note: School facilities are generally subject to the design and construction standards specified in Education Code 17280-17317 (the Field Act). However, even if a school building was not constructed under those requirements, Education Code 17371 indicates that Board members will not be personally liable for related injury to persons or damage to property provided that the Board complies with Education Code 17365-17374 pertaining to fitness for occupancy. Protection from liability begins when the Board initiates action to comply with Education Code 17367 as described in the following paragraph. See BB 9260 - Legal Protection.

In the event that the Department of General Services or any licensed structural engineer or licensed architect finds and reports to the Board of Education 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)

EVALUATING EXISTING BUILDINGS (continued)

Note: Education Code 17292 provides that districts may use portable school buildings that do not comply with Field Act provisions relating to structural safety provided that specified conditions are met. SB 1324 (Ch. 308, Statutes of 2006) amended Education Code 17292 to extend, until September 30, 2015, the date by which such portables may be used and expanded the conditions to include (1) anchoring the portable to the ground to resist earthquake and wind loads and (2) certifying to the Department of General Services that the portable complies with the conditions. In addition, SB 1324 amended Education Code 17292 to provide that, on or before October 30, 2015, the Board must adopt a resolution certifying to the State Allocation Board that the use of any such portables has been discontinued in accordance with law.

A relocatable school building or structure shall meet the requirements of Education Code 17280-17317 and 17365-17374 pertaining to structural safety. However, a relocatable building that does not meet the requirements of Education Code 17280 may be used as a school building until September 30, 2015, if all the conditions specified in Education Code 17292 are met and the Board so certifies to the Department of General Services. (Education Code 17291, 17292)

Energy Efficiency

To the extent that services are available, the Superintendent or designee shall arrange for the energy audit of school buildings to identify the type and amount of work necessary to retrofit buildings and obtain an estimate of projected energy savings. 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)

Legal Reference: (see next page)

AR 7111(c)

EVALUATING EXISTING BUILDINGS (continued)*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:*CSBA PUBLICATIONS*Maximizing School Board Governance: School Facilities Management*WEB SITES*CSBA: <http://www.csba.org>**California Department of Education, School Facilities Division: <http://www.cde.ca.gov/s/f/a>**California Energy Commission, Bright Schools Program:**<http://www.energy.ca.gov/efficiency/brightschools>**Coalition for Adequate School Housing: <http://www.cashnet.org>**Department of General Services, Office of Public School Construction: <http://www.dgs.ca.gov/opsc>*

RELATIONS WITH LOCAL AGENCIES

Note: Education Code 35275 requires the Board to meet with local park and recreation authorities to coordinate planning, design and construction of new school facilities and school sites or major additions to existing school facilities and recreation and park facilities; see AR 7150 - Site Selection and Development. In addition, Government Code 65352.2, as added by AB 1367 (Ch. 396, Statutes of 2001), encourages collaboration between districts and cities and counties by authorizing meetings between those agencies to discuss methods of coordinating planning, design and construction of facilities.

The Board of Education 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)

Note: Government Code 65995, as amended by SB 50 (Ch. 407, Statutes of 1998) essentially repeals, until 2006, the Mira/Hart/Murrietta line of case law which had granted cities or counties the authority to deny development projects based on a determination as to whether the schools were adequate to meet the demands created by the development. Although that authority has been repealed, districts may still wish to encourage cities/counties to include language in the city/county general plan regarding adequacy of school facilities so that the language is in place upon the expiration of SB 50's restrictions. The following paragraphs are **optional**.

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 planning staff regarding the impact of land development on the district's educational programs and facility needs.

(cf. 7150 - Site Selection and Development)

Recognizing that available funds may not suffice to eliminate overcrowding in district schools caused by new development, the Board urges the city 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.

(cf. 7210 - Facilities Financing)

(cf. 7211- Developer Fees)

BP 7131(b)

RELATIONS WITH LOCAL AGENCIES (continued)**Notifications to Other Local Agencies**

Note: Government Code 65971 requires the Board, upon making the findings described below, to notify the city council or board of supervisors of the city or county in which the district is located. If the city council or board of supervisors concurs in these findings, Government Code 65972 requires that the development be denied unless specific overriding factors exist or the city or county, by ordinance and as a condition of approval, imposes specific land and/or fee requirements on the developer to fund interim facilities. Although Government Code 65972 and 65972 may have been preempted by the provisions in SB 50, it is recommended that, if the conditions exist, districts make the findings below and consult legal counsel, as appropriate.

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)

Note: Government Code 53094 has long authorized Boards to render, by a 2/3 vote of its members, a city or county zoning ordinance inapplicable to a proposed use of property by the district, as long as the proposed use of the property is for classroom facilities. See E 9323.2 - Actions by the Board. However, Government Code 53094, as amended by AB 1367 (Ch. 396, Statutes of 2001), now requires that, prior to taking such an action, the district must notify the city or county planning commission of the acquisition of a new school site (Public Resources Code 21151.2) or the adoption of a facilities needs analysis or master plan (Government Code 65352.2).

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.

(cf. 7110 - Facilities Master Plan)

Legal Reference: (see next page)

RELATIONS WITH LOCAL AGENCIES (continued)

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>

Facilities

BP 7140

ARCHITECTURAL AND ENGINEERING SERVICES

Note: Education Code 17302 requires districts to employ a licensed and certified architect or structural engineer to prepare building plans, estimates and specifications and supervise the construction of building projects.

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

Note: As added by SB 50 (Ch. 407, Statutes of 1998), Education Code 17070.50 prohibits the State Allocation Board from apportioning state facilities funds under the new program unless the district has certified that the services of an architect, a structural engineer or other design professional has been selected using a "competitive process" consistent with Government Code 4526. The process required by Government Code 4526 must be based on "demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services." See AR 7140.

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.

(cf. 3311 - Bids)

Note: Although contracts for architectural and other professional services are exempted from the bidding requirements detailed in Public Contract Code 20111, State Allocation Board policy still requires a three percent disabled veteran business participation goal when contracts exceeding \$10,000 for lease-purchase building projects and certain contracts in the State Relocatable Classroom Program are awarded by school districts and funded by the State Allocation Board. Architects and other professionals who are not disabled veteran business enterprises can comply with this policy by using subcontractors for goal attainment or by meeting specified "good faith" efforts.

*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

Facilities

AR 7140(a)

ARCHITECTURAL AND ENGINEERING SERVICES

The Board of Education 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)

(cf. 3312 - Contracts)

Note: As a condition to the receipt of state funding, Education Code 17070.50, as added by SB 50 (Ch. 407, Statutes of 1998), requires districts to select architectural and engineering services pursuant to the competitive process outlined below.

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)

Note: Government Code 4526 requires that the district's selection process include at least items #1-3 below; however, the law does not prescribe the exact procedures that must be followed. Generally, elements of a "competitive process" include advertising and notice of the need for services, objective evaluation and selection criteria, and an appeals process for use by those not selected. Districts may wish to develop procedures consistent with these and other requirements in consultation with legal counsel.

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

(cf. 9270 - Conflict of Interest)

Note: Pursuant to Government Code 4527, the following items are optional.

The selection process may also include: (Government Code 4527)

1. Detailed evaluations of current statements of prospective contractors' qualifications and performance data

AR 7140(b)

ARCHITECTURAL AND ENGINEERING SERVICES (continued)

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)

Facilities

BP 7150(a)

SITE SELECTION AND DEVELOPMENT

Note: Education Code 17070.10-17077.10 set forth eligibility requirements for the receipt of state facilities funds under the School Facilities Program of 1998 (Proposition 1A). As a condition for receipt of the funds, Education Code 17070.50 requires districts to obtain written approval from the California Department of Education (CDE) and certify to the State Allocation Board that the district's site selection and building plans comply with the regulations developed by the department pursuant to Education Code 17251(b) and (c). In addition, Education Code 17070.50 requires the district to certify that the services of an architect, a structural engineer, or other design professional has been selected using a competitive process consistent with Government Code 4526. See BP/AR 7140 - Architectural and Engineering Services.

The Board of Education 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.

(cf. 7110 - Facilities Master Plan)

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.

(cf. 1220 - Citizen Advisory Committees)
(cf. 9320 - Meetings and Notices)

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.

(cf. 7140 - Architectural and Engineering Services)
(cf. 7210 - Facilities Financing)

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

Note: Pursuant to Public Resources Code 21082, districts are mandated to adopt procedures for the evaluation of all projects (beyond just site selection) and the preparation of environmental impact reports and negative declarations required under the California Environmental Quality Act (CEQA). In order to satisfy this mandate, the district may either (1) adopt the actual CEQA guidelines, as applicable, as its own procedure; (2) adopt the county or city guidelines, (3) or develop its own procedure. In most cases, the district's environmental investigation will conclude with a simultaneous public review of both the environmental documentation and, if applicable, the Department of Toxic Substance Control (DTSC) documents.

The following paragraph provides for the use of CEQA guidelines for the evaluation of all projects, including site selection. Districts that have adopted the city/county guidelines or their own procedure should modify the paragraph accordingly.

BP 7150(b)

SITE SELECTION AND DEVELOPMENT (continued)

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

Note: In 82 Ops. Cal. Atty. Gen. 130 (1999), the Attorney General opined that a district may construct a school on land designated by a county ordinance for "agricultural, open space or rural land use." However, the Board must, by a two-thirds vote pursuant to Government Code 53094, render the ordinance inapplicable to the proposed use of the property. See 9323.2 - Actions by the Board. The exemption can be blocked only by a court determination that the action was "arbitrary and capricious."

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

Legal Reference: (see next page)

SITE SELECTION AND DEVELOPMENT (continued)*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
- 17250.20-17250.35 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

HEALTH AND SAFETY CODE

- 44360 Risk assessment

PUBLIC RESOURCES CODE

- 21000-21177 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/>

Facilities

AR 7150(a)

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)

(cf. 7131 - Relations with Local Agencies)

2. Notify the appropriate local planning agency in writing and request its report and recommendations regarding the proposed site or proposed addition'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 as specified in Government Code 65302. (Education Code 17212-17212.5)

Note: Education Code 17212.2, as added by AB 2485 (Ch. 505, Statutes of 2004), authorizes the district to request information from the following entities in order to evaluate the safety of a proposed site.

4. As necessary, request information necessary or useful to assess and determine the safety of a proposed school site, or an addition to an existing school site, from a person, corporation, public utility, locally publicly owned utility, or governmental agency regarding pipelines, electric transmission and distribution lines, railroads, and storage tanks in accordance with law. (Education Code 17212.2, 17251)
5. Ensure that the site meets state standards for school site selection as specified in 5 CCR 14010-14012.
6. Ensure compliance with the California Environmental Quality Act (CEQA) as required by law. (Public Resources Code 21000-21177)

Note: AB 1358 (Ch. 229, Statutes of 2005) amended Education Code 17215 to require notification to the California Department of Education (CDE) if the district is leasing a site near an airport.

7. If the proposed site is within two miles of the air line of an airport runway or proposed runway, before acquiring title to or leasing the site, notify the California Department of Education in writing. (Education Code 17215)

Note: Education Code 17213 prohibits the approval of a school site within 500 feet from the freeway or other busy traffic corridor, unless the district performs an air quality analysis as specified in law.

AR 7150(b)

SITE SELECTION AND DEVELOPMENT (continued)

8. If the proposed site is within 500 feet of the edge of the closest traffic lane of a freeway or other busy traffic corridor, conduct an air quality analysis pursuant to Health and Safety Code 44360 and Education Code 17213 and determine that the air quality at the proposed site is such that neither short-term nor long-term exposure poses significant health risks to students. (Education Code 17213)

Note: Pursuant to Education Code 17213.1, both a Phase I environmental assessment and a preliminary endangerment assessment, if necessary, must be conducted pursuant to Education Code 17213.1 to determine whether a release of hazardous materials has occurred, as provided in item #1 below. The district must submit these documents to the CDE and Department of Toxic Substance Control (DTSC) for review. If hazardous substances are disclosed, Education Code 17213.1 authorizes DTSC to order the district to complete certain "response actions" prior to securing state funding.

In the selection and development of projects funded pursuant to the School Facilities Program of 1998 (Proposition 1A) as contained in 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)

Note: The Office of Public School Construction recommends that districts consult with legal counsel to ensure compliance with the disabled veteran provisions of item #4 below.

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)

Facilities

BP 7210(a)

FACILITIES FINANCING

When it is determined that school facilities must be built or expanded to accommodate a increased or projected increased enrollment, the Board of Education 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.

(cf. 7110 - Facilities Master Plan)

Note: The following list describes some of the facilities financing options available to school districts.

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

1. Levying developer fees pursuant to Education Code 17620 and Government Code 65995-65998

(cf. 7211 - Developer Fees)

2. Forming a community facilities district pursuant to Government Code 53311-53368.3, the Mello-Roos Community Facilities Act

(cf. 7212 - Mello-Roos Districts)

3. Forming a school facilities improvement district pursuant to Education Code 15300-15425

(cf. 7213 - School Facilities Improvement Districts)

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

Legal Reference: (see next page)

FACILITIES FINANCING (continued)

Legal Reference:

EDUCATION CODE

- 15100-17059.2 School bonds, especially:
- 15122.5 Ballot statement
- 15300-15327 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: (see next page)

BP 7210(c)

FACILITIES FINANCING (continued)*Legal Reference: (continued)*COURT DECISIONSLoyola Marymount University v. Los Angeles Unified School District (1996) 45 Cal.App.4th 1256Ehrlich v. City of Culver City (1996) 12 Cal.4th 854Dolan v. City of Tigard (1994) 114 S.Ct. 2309Canyon North Co. v. Conejo Valley Unified School District (1993) 19 Cal.App.4th 243, 23 Cal.Rptr.2d 495Garlic Development Co. v. Hayward Unified School District (1992) 3 Cal.App.4th 320, 4 Cal.Rptr.2d 897Nollan v. California Coastal Commission (1987) 107 S.Ct. 3141ATTORNEY GENERAL OPINIONS79 Ops. Cal. Atty. Gen. 149 (1996)*Management Resources:*WEB SITES*Department of General Services, Office of Public School Construction: <http://www.dgs.ca.gov/opscl>*

Facilities

BP 7211(a)

DEVELOPER FEES

Note: Developer fees are one method of financing facilities available to the district. As amended by SB 50 (Ch. 407, Statutes of 1998), Government Code 65995 prohibit cities and counties from requiring development fees in excess of the maximum amounts set forth in Education Code 17620 to help fund school facilities. Government Code 65995 and, as amended by AB 127 (Ch. 35, Statutes of 2006), Government Code 65997 essentially repeal, until 2012, the Mira/Hart/Murrietta line of case law which had granted cities or counties the authority to deny development projects based on a determination as to whether school facilities were adequate to meet the demands created by the development. Districts with current Mira agreements should consult legal counsel in order to determine whether that agreement can be "grandfathered," and therefore exempted from the SB 50 requirements.

See AR 7211 for detailed findings that must be made by the Board of Education prior to the levying of any developer fees. The following policy and regulation are optional.

In order to finance the construction or reconstruction of school facilities needed to accommodate students coming from new development, the Board of Education 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

Note: In addition to authorizing developer protests in accordance with Government Code 66020 and 66021, Education Code 17621 requires the Board to provide an appeals process for commercial/industrial fees when the district has analyzed the impact of these projects on a categorical rather than individual basis.

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

Legal Reference: (see next page)

BP 7211(b)

DEVELOPER FEES (continued)*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/opsd>*

Facilities

AR 7211(a)

DEVELOPER FEES

Note: Government Code 65995 provides authority for three different levels of developer fees to be levied by school districts. Pursuant to Education Code 17620 and Government Code 65995, Level 1 fees for residential, commercial and industrial construction may be assessed as long as the district's Developer Fee Justification Study, as required by Government Code 66001, justifies the amount. Pursuant to Education Code 17620, some types of construction may be exempted. Districts should consult with legal counsel as appropriate.

Level 1 Funding: Residential, Commercial and Industrial Construction

Note: In order to levy or increase developer fees, Government Code 66001 requires that a district develop a Fee Justification Study which justifies the amount of the fee. The State Allocation Board sets the developer fee rates; these rates will be increased every two years. It is important to note that, in order to increase their rates, Government Code 66001 and 66016 requires districts to update their Fee Justification Study and to satisfy the notice and hearing requirements, as specified below. Education Code 17622 requires separate, special findings when levying fees on spaces enclosed for agricultural purposes.

Before taking action to establish, increase or impose developer fees, the Board of Education 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

AR 7211(b)

DEVELOPER FEES (continued)

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)

Note: In order to collect fees earlier than the date of final inspection or the issuance of a certificate of occupancy, the district must determine either item #a or #b below.

- 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

Note: Government Code 65995.5 allows the Board to impose a fee on residential construction that is higher than the Level 1 fee limit set forth in Government Code 65995 if the district is considered eligible pursuant to Education Code 17071.10-17078.10 and a timely application is made to the State Allocation Board. In addition, Government Code 65995.5 requires the district to adopt a "Facility Needs Analysis" and to satisfy the cost-saving/revenue-enhancing measures described in that section. Government Code 65995.5 clarifies that developer fees may be expended on the costs of performing the needs analysis as well as on the administrative costs associated with collecting the fees.

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

Note: The Needs Analysis required by Government Code 65995.6 serves a similar purpose as the Fee Justification Study detailed above, but specifies different legal requirements, as well as a different approval and adoption process.

2. Conduct and adopt a school facility needs analysis pursuant to Government Code 65995.6

AR 7211(c)

DEVELOPER FEES (continued)

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

Note: Government Code 65352.2, as added by AB 1367 (Ch. 396, Statutes of 2001), requires the district to provide the notification specified below to the appropriate city or county planning agency. If the parties decide to meet, Government Code 65352.2 specifies issues that may be considered at the meeting.

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)

(cf. 7131 - Relations with Local Agencies)

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

Note: Government Code 65995.6 provides that if the school facility needs analysis is revised during the period of public review or at the public hearing, the approval process must recommence (e.g., another 30-day review period, published notice, etc.).

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)

AR 7211(d)

DEVELOPER FEES (continued)

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)

Note: Pursuant to Government Code 65995.6, the fees take effect immediately upon adoption and are effective for only one year. After one year, the district must repeat the adoption process.

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

Note: Government Code 65995.7 has authorized a district that is eligible to receive the Level 2 funding the authority to levy a still higher fee on residential construction (Level 3 Funding) upon a determination by the State Allocation Board that state funds are no longer available. However, with the passage of the 2002 School Facilities Bond (Proposition 47) and its implementing legislation, AB 16 (Ch. 33, Statutes of 2002), districts are prohibited from levying Level 3 fees until the 2004 primary election.

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)

DEVELOPER FEES (continued)

Note: Item #2 below is optional and is intended to ensure that the district will have evidence that the required notification was delivered.

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

AR 7211(f)

DEVELOPER FEES (continued)

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)

Note: Pursuant to Government Code 66006, the district may establish a reasonable annual charge, based on estimated cost, for sending the above notice.

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)

Note: Pursuant to Government Code 66001, if the findings are not made every five years as required, the district may be required to refund the moneys in the account or fund pursuant to Government Code 66006(e).

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

Note: Pursuant to Education Code 17621, a developer may protest the imposition of any developer fees listed above in accordance with the requirements in Government Code 66020.

AR 7211(g)

DEVELOPER FEES (continued)

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)

Facilities

BP 7214(a)

GENERAL OBLIGATION BONDS

Note: Article 16, Section 18 of the California Constitution permits school districts to issue bonds for school facilities with either a 66.67 percent or 55 percent approval by local voters. To qualify for the lower 55 percent (Proposition 39) threshold, districts must use the bond funds for more limited purposes and fulfill additional accountability requirements, as specified below.

In 88 Ops. Cal. Atty. Gen. 46 (2005), the Attorney General opined that a school district may use district funds to hire a consultant to assess the feasibility of developing a bond measure and to assess the public's support and opposition. However, according to the Attorney General, a district may not use district funds to hire a consultant to develop and implement a strategy to build a coalition to support the bond because such activities would be an impermissible use of public funds for campaign purposes in violation of Education Code 7054. For further discussion regarding use of district funds for political purposes, see BP 1160 - Political Processes.

Education Code 15100 sets forth conditions under which the Board may call for a bond election. Pursuant to Education Code 15266, these conditions must be satisfied if the Board is seeking either the 66.67 percent or 55 percent approval threshold. The following paragraph is consistent with Education Code 15100.

The Board of Education desires to provide adequate facilities in order to enhance student learning 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.

(cf. 1160 - Political Processes)
 (cf. 7110 - Facilities Master Plan)
 (cf. 7210 - Facilities Financing)

Note: For bonds passed with a 55 percent majority, Education Code 15268 and 15270 set limits as to the maximum amount of the bond and the tax rate that may be levied as a result of the bond. Limitations for bonds requiring a 66.67 percent majority are detailed in Education Code 15102-15109.

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

Bonds Requiring 55 Percent Approval by Local Voters

Note: Pursuant to Education Code 15266, upon adoption of the resolution specified below, the district must comply with the accountability provisions required for 55 percent approval, even if the bond ultimately passes by a 66.67 percent majority of the voters.

The Board may decide to pursue the authorization and issuance of bonds by approval of 55 percent 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 percent majority of the voters. (Education Code 15266)

GENERAL OBLIGATION BONDS (continued)

Note: As amended by AB 3063 (Ch. 289, Statutes of 2006), Education Code 15266 requires that the bond election be held only during a regularly scheduled local election at which all of the electors in the district are entitled to vote. Therefore, those school districts whose boundaries encompass more than one city or county or whose board members are elected by trustee area must ensure that the bond election is on a ballot in which all of the electors in the district are entitled to vote.

The bond election may only be ordered at a primary or general election, a statewide special election, or a regularly scheduled local election at which all of the electors of the school district are entitled to vote. (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, as detailed in California Constitution Article 13A, Section 1(b)(3), 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

(cf. 0440 - District Technology Plan)
(cf. 0450 - Comprehensive Safety Plan)
(cf. 6151 - Class Size)

Note: Because the proceeds from the bond can be used only for types of construction, site acquisition or lease purposes for school facilities in accordance with California Constitution Article 13A, Section 1(b)(3)(A), bond funds cannot be used to pay the costs of the audits required below.

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

BP 7214(c)

GENERAL OBLIGATION BONDS (continued)**Bonds Requiring 66.67 Percent Approval by Local Voters**

Bonds shall be sold to raise money for the following purposes: (Education Code 15100)

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

Legal Reference: (see next page)

GENERAL OBLIGATION BONDS (continued)*Legal Reference:*EDUCATION CODE

- 7054 Use of district property, campaign purposes
- 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
- 15372 Elections official certificate

GOVERNMENT CODE

- 1090-1099 Prohibitions applicable to specified officers
- 1125-1129 Incompatible activities
- 8855 California Debt and Investment Advisory Commission
- 53580-53595.5 Bonds
- 54952 Definition of legislative body, Brown Act

CALIFORNIA CONSTITUTION

- Article 13A, Section 1 Tax limitation
- Article 16, Section 18 Debt limit

COURT DECISIONS

- San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School District, (2006) 139 Cal.App.4th 1356

ATTORNEY GENERAL OPINIONS

- 88 Ops. Cal. Atty. Gen. 46 (2005)
- 87 Ops. Cal. Atty. Gen. 157 (2004)

*Management Resources:*WEB SITES

- CSBA: <http://www.csba.org>
- CSBA, District and Financial Services, Proposition 39 Bond Performance Audit Program: <http://www.csba.org/ds/prop39.cfm>
- California Department of Education: <http://www.cde.ca.gov>
- California Office of Public School Construction: <http://www.opsc.dgs.ca.gov>

Facilities

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GENERAL OBLIGATION BONDS**Election Notice**

Note: Notice and ballot requirements for bond elections are specified in Education Code 15120-15126. Additional requirements for bond measures with a 55 percent vote are contained in Education Code 15272.

The Superintendent or designee shall ensure that election notice and ballot requirements are satisfied in accordance with Education Code 15120-15126 and 15272.

Certificate of Results

Note: Pursuant to Elections Code 15372, following a bond election, the county elections official must submit a certificate of the election results to the Board which must then provide certification to the county board of supervisors, as specified below.

If it appears from the certificate of election results that the appropriate majority of the voters are in favor of issuing the bonds, the Board of Education shall cause an entry of that fact to be made in its 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 connection with the election results. (Education Code 15124, 15274)

(cf. 9324 - Board Minutes and Recordings)

Resolution Regarding Sale of Bonds

Note: Pursuant to Education Code 15140, bonds may be offered for sale by either the county board of supervisors or the County Superintendent of Schools. However, the county board of supervisors may adopt a resolution authorizing a district to sell bonds on its own behalf when the district has not received a qualified or negative certification in its most recent interim financial report.

Prior to bonds being offered for sale, Education Code 15140 requires the Board to adopt a resolution directing the sale of bonds and prescribing the amount of bonds to be sold. As amended by AB 1482 (Ch. 213, Statutes of 2006), Education Code 15146 requires the Board to adopt an additional resolution prior to the sale of bonds and after the sale, to disclose the cost information and submit a cost summary, as detailed below.

Following passage of the bond measure, the Board shall pass a resolution to issue the sale of bonds. The resolution shall prescribe the total amount of bonds to be sold and may also prescribe the maximum acceptable interest rate, not to exceed eight percent, and the time(s) when the whole or any part of the principal of the bonds shall be payable, which shall not be more than 25 years from the date of the bonds. (Education Code 15140)

GENERAL OBLIGATION BONDS (continued)

Prior to the sale of bonds, the Board shall adopt, as an agenda item at a public meeting, another resolution, which includes all of the following items: (Education Code 15146)

1. Express approval of the method of sale
2. Statement of the reasons for the method of sale selected
3. Disclosure of the identity of the bond counsel, and the identities of the bond underwriter and the financial adviser if either or both are utilized for the sale, unless these individuals have not been selected at the time the resolution is adopted, in which case the Board shall disclose their identities at the public meeting occurring after they have been selected
4. Estimates of the costs associated with the bond issuance

After the sale, the Board shall be presented with the actual cost information and shall disclose that information at the Board's next scheduled meeting. The Board shall ensure that an itemized summary of the costs of the bond sale and all necessary information and reports regarding the sale are submitted to the California Debt and Investment Advisory Commission. (Education Code 15146)

Citizens' Oversight Committee

Note: The following section is for use by districts that have had a general obligation bond approved with a 55 percent majority. Education Code 15278 requires such districts to appoint a citizens' oversight committee. Districts that have had approval of a bond with 66.67 percent majority vote are not required by law to appoint an oversight committee but may, at their discretion, form an oversight committee under requirements and guidelines adopted by the Board.

If a district general obligation bond requiring a 55 percent 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 enters 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

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GENERAL OBLIGATION BONDS (continued)

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

(cf. 0420 - School Plans/Site Councils)
(cf. 1230 - School-Connected Organizations)

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 or 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 of Article 13(A), Section 1(b)(3) of the California Constitution

GENERAL OBLIGATION BONDS (continued)

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

(cf. 7110 - Facilities Master Plan)

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 the committee's purpose and sufficient resources to publicize the committee's conclusions. (Education Code 15280)

Note: Pursuant to Government Code 54952, open meeting laws (the Brown Act) apply to any commission, committee, board, or other body created by formal action of the Board, regardless of whether that body is permanent or temporary, decision-making or advisory.

All oversight committee proceedings shall be open to the public and noticed in the same manner as proceedings of the Board. Committee meetings shall be subject to the provisions of the Ralph M. Brown Act. (Education Code 15280; Government Code 54952)

(cf. 1220 - Citizen Advisory Committees)
(cf. 9320 - Meetings and Notices)

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 web site. (Education Code 15280)

(cf. 1340 - Access to District Records)
(cf. 9324 - Minutes and Recordings)

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GENERAL OBLIGATION BONDS (continued)

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)

(cf. 9270 - Conflict of Interest)

Reports

Note: The following section applies to all bond elections.

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

**ALBANY UNIFIED SCHOOL DISTRICT
BOARD AGENDA BACKUP**

Regular Meeting of September 1, 2009

ITEM: **BOARD POLICY UPDATE/REVISION
SECTION 5000 – Students**

PREPARED BY: Marla Stephenson, Superintendent 

TYPE OF ITEM: **1st Reading – Board Policies**

BACKGROUND INFORMATION:

Per Education Code the Governing Board shall adopt written policies to convey its expectations for actions that will be taken in the district, clarify roles and responsibilities of the Board and Superintendent, and communicate Board philosophy and positions to the students, staff, parents/guardians and the community. Board policies are binding on the district to the extent that they do not conflict with federal or state law and are consistent with the district's collective bargaining agreements.

The Board shall review the newly adopted policies on Students and suggest any revisions that are presented for a first and second reading prior to adoption. Board-requested changes or revisions will be made prior to the second reading at the next-scheduled regular board meeting policies will be presented for 2nd reading and adoption.

FINANCIAL INFORMATION:

No fiscal impact

RECOMMENDATION:

It is recommended that the Governing Board:

- (1) Accept for a first reading the following board policies, administrative regulations and/or exhibits and
- (2) Direct the Superintendent or his designee to further refine the documents as necessary and return them for a second reading at the September 14, 2009 meeting, at which time the Governing Board will vote to adopt, approve or delete them as recommended.

**ALBANY UNIFIED SCHOOL DISTRICT
BOARD AGENDA BACKUP**

Regular Meeting of September 1, 2009

ITEM: Student Safety-Arrival and Dismissal at School Sites

PREPARED BY: Marla Stephenson, Superintendent *ms*

TYPE OF ITEM: **REVIEW**

BACKGROUND INFORMATION:

Traffic in and around our schools continue to be of concern. Student safety is of the utmost importance to the District. With schools now open, school traffic issues are apparent.

Albany High School: Parents impede the traffic flow on Key Route by stopping in the traffic lane to drop off or pick up their student.

Albany Middle School: Parents impede Brighton Street traffic in both directions by stopping in the traffic lane to drop off or pick up their student. Students are darting between cars on a very busy thoroughfare to get across Brighton Ave.

Marin Elementary: Parents parking in the white zone and leaving their cars, forcing other parents to double-park to be let their children out.

Cornell Elementary: Parents impede traffic flow on Talbot in both directions by stopping in the traffic lane to drop off or pick up their student.

OceanView Elementary: Parents impede traffic flow on Jackson in both directions by stopping in the traffic lane to drop off or pick up their student. Parents using the parking lot for pick up and drop off, students darting between moving cars in the parking lot; individuals with disabilities unable to parking the parking lot because of the conga line of cars in the lot.

The Albany Police Department has been visible and are writing tickets in front of schools. The City is very involved in student safety issues. The City recently received a state Safe Routes to School grant (SR2S) in the amount of \$293,760 for pedestrian and safety improvements around Ocean View elementary school. The improvements include:

- New traffic signal with protected left turn at Buchanan and Jackson
- Pedestrian count down signals
- Crosswalks along the walking shed of Buchanan and Solano Avenues
- Curb ramps at Solano and Madison.

In addition, the grant includes educational activities and events to encourage safe bicycle riding/walking to school and training to organize walking school buses.

In conjunction with the City efforts, AUSD will create site vehicle traffic plans and include vehicle, bicycle and pedestrian safety information and traffic routes that include information on:

- Morning Arrival (student drop off)
- During School Hours
- Afternoon Dismissal (student pickup)

These plans will be distributed to parents and students and put on our web site. The district will also develop some short term recommendations to improve student safety during drop off and pick up times. We will also work on developing long term strategies and possible capital improvements to improve traffic safety at our most heavily impacted school sites.

FINANCIAL INFORMATION:

No fiscal impact.

RECOMMENDATION: Discuss Student Safety –arrival and dismissal at school sites.