

TO: BOARD OF EDUCATION

ACTION/CONSENT

07/27/06

FROM: TIM WALKER/WINSTON A. BRAHAM

RE: APPROVAL OF BOARD POLICY 3430 - INVESTMENTS (DEVELOPER FEES)

RECOMMENDATION NO. A.11

It is recommended that the Board of Education approve the attached proposed revision to Board Policy 3430 Business and Operations - Investments. This revision incorporates the Board's action of June 15, 2006, regarding changes to the collection of developer fees effective August 14, 2006 and its adoption of Resolution 05-26.

COMMENTS: The Board has met the legally-required public discussions standard for the Developer Fee Justification Study dated April 12, 2006 as prepared by SchoolWorks, Inc. at its June 1, 2006 Board Meeting. It adopted Resolution 05-26 - *Increase of School Facility Fees (Developer Fees)* (after public session on June 1, 2006) at its June 15, 2006 Board Meeting which included terminating the existing "disaster" developer fee waiver provision and limiting the benefit to the owner who suffered the loss, and eliminating the cap of 5,000 square feet for residential construction.

The required Public Notices were published on May 18 and 25, 2006 in both *The Santa Monica Daily Press* and *The Malibu Surfside News*. Additional Public Notices regarding the implementation will be published in the above-listed newspapers on Thursday, July 20<sup>th</sup> and the corresponding municipalities will be notified of the new rates.

MOTION MADE BY: Dr. Escarce

SECONDED BY: Dr. Wisnicki

STUDENT ADVISORY VOTE:n/a

AYES: All (6)

NOES: None (0)

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NUMBER	ARTICLE	TITLE
3430	Business and Operations	Investments ( <u>Developer Fees</u> )

SUBTOPIC	POLICY	REGULATION	EXHIBIT
Developer Fees	x		

#### DETAIL

The Board of Education, the Superintendent, and all management employees of the District support prudent investment of all revenues received by the District. The goals are compliance with relevant laws, protection and security of principal and interest, and liquidity.

The District shall deposit in the LACOE Treasury, pursuant to Education Code §41001, to be placed to the credit of the proper Fund, all General funds, Adult Education funds, Cafeteria funds, Deferred Maintenance funds, General Obligation Bond funds, Capital Facilities funds, Developer Fees/School Facility funds, Special Reserve funds and Foundation Trust funds. The District and the LACOE Treasury shall make investment of all such funds within the requirements of the previously referred to prudent investor rules in California Probate Code §16045 et seq.

The District also may deposit funds in a bank or other financial institution whose accounts are federally insured in accordance with Education Code §41002.5 or any other law or provisions of the California School Accounting Manual.

The District shall deposit all other monies, such as Revolving Cash Fund, allowed by law to be deposited in other than the LACOE Treasury in any fully-insured banking institution in the Los Angeles County selected by the Superintendent, CFO and/or their joint designee.

The Superintendent, CFO or designee, as stipulated by applicable LACOE/California Education Codes, shall file periodic reports with the Board of Education regarding the status of all District investments in the LACOE Treasury and all monies deposited in banking institutions. Note: It is preferred, however, that these reports be continued/reflected in the 1st and 2nd Interim Reports as well as the annually-required Independent Audit Report, unless otherwise specified by the Board of Education.

#### I. Purpose

This policy is designed to govern the investment of funds held by the Santa Monica-Malibu Unified School District that will be henceforth referred to as "The District". The policy also governs the issuance of debt by the District. This policy is based upon Federal, State and Local Laws as well as prudent money management practices. To the extent that this policy conflicts with applicable laws, the applicable law shall prevail. The primary goals of this policy are:

- To assure compliance with all federal, state and local laws governing the investment of monies and the issuance of debt;

- To protect the principal deposits of the District; and,
- To generate investment income within the parameters of this policy and established and/or known government codes.

## II. Policy

The District's primary investment objective shall be to maintain the safety and liquidity of its funds. Safety of principal is the foremost objective of the District Investment Policy. The investment factors the District shall consider, in order of descending importance, are as follows:

- Safety of invested funds;
- Sufficient liquidity to meet future cash flow requirements; and,
- Attain maximum flexible yield consistent with the above requirements.

In addition, the District/Board of Education shall adopt measures as set forth in this document to ensure that the issuance of debt by the District complies with all applicable federal and state laws, including federal and state security laws.

The Chief Financial Officer (CFO)/Assistant Superintendent for Fiscal/Business Services, under the direction of the Superintendent and the Board of Education, shall have the responsibility for all decisions and activities performed under the District's Investment Policy. The CFO shall have the ability to allocate resources or delegate responsibilities as necessary with external/oversight expert independent advice in order to optimize the safety and liquidity of the investment portfolio and to implement this particular Investment Policy.

## III. Legal Constraints

Pursuant to California Education Code §41001, the District shall deposit all funds received or collected from any source into the LACOE Treasury to be placed to the credit of the proper Fund of the District, except as otherwise provided by a policy or practices to be adopted by the Board of Education and will be described herein.

Pursuant to California Education Code §41015, the District may invest all or part of funds deposited in a Special Reserve Fund or any surplus monies not required for immediate necessities of the District in any of the investments specified in California Government Code §16430 or §53601. Special Reserve Funds are defined as those Funds which the Board of Education has designated for capital outlay or other purposes where an accumulation over a period of a fiscal year is desired.

## IV. Authorized Investments

The District shall make investments in the context of "prudent investor rules" [Government Civil Code §2261 et seq.] which in substance states that:

"Investments shall be made with the judgment and care under circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment considering the probable safety of the capital as well as the probable income to be derived." The District shall deposit all funds received or collected from any source into the LACOE Treasury, except as provided for through the California Education Code. Those funds maintained in a Special Reserve Fund or any surplus funds not required for the immediate necessities of the District shall be available for investments in "funds available for investment" on the conditions set forth in this policy.

1. The LACOE Investment Pool, established by the LACOE Treasurer for the benefit of local agencies and/or schools: the District may invest up to 100% of its funds available for investment in the LACOE Investment Pools.
2. The local Agency Investment Fund established by the California State Treasury for the benefit of the local agencies and/or schools: the District may also invest up to 100% of its funds available for investment in the Local Agency Investment Fund.
3. To the extent that the District directs the investments of its funds to specific securities, those securities shall be limited to the securities identified in the California Government Code §53601. However, the District will not under any circumstances direct the investment of this Fund to reverse re-purchase agreement unless such transaction are matched to their maturity.
4. Should, in the future, the needs of the District justify the issuance of General Obligation Bonds and/or any revenue producing investments, notwithstanding prevailing interest rates or yield and/or incentives at that time, the District shall retain, and the Issuer's expense, at least two (2) competing investment experts' review to determine if the benefits of a "Non-Callable" feature(s) outweigh the ability of the District and/or its Issuer(s) to assign multiple "Call" periods of said issued debt and/or retention of the District's ability to restructure said debt in advance of its maturity date.

NOTE: The goal is to increase the "Call" opportunities.

5. Monies received from the sources or for the purposes listed below may be deposited in a bank or other financial institution. Monies so deposited shall be in fully-insured or collateralized accounts or instruments in bank accounts maintained outside of the LACOE Treasury and shall be limited to the following purposes:
  - A. Revolving Cash
  - B. Associated Student Body Accounting
  - C. Self-Insurance Funds
  - D. If applicable at all, in the Santa Monica-Malibu area, Mello-Roos bond proceeds
  - E. Tax and Revenue Anticipation Notes (TRANS) proceed.
  - F. Cafeteria Fund

#### V. Compliance with Federal and State Security Laws

The District will take reasonable steps to ensure that any debt offerings issued by the District comply fully with all applicable federal and state security laws. In connection with all debt offerings issued by the District, the District shall retain bond counsel and disclosure counsel to review the offering materials prepared in connection with the debt offering to ensure that disclosures contained in offering materials comply with federal and state security laws. The CFO shall be responsible for reviewing the offering materials regarding the accuracy of information disclosed in such materials. This will be done in concert with the Superintendent, Board of Education and/or any retained expert consultant.

#### VI. Deposit of Proceeds from the Issuance of Debt

The District shall not issue debt for the sole purpose of generating funds for investment. The District shall limit the issuance of debt for the purposes of meeting short-term cash flow needs and to fund capital projects. Debt issuance shall be reviewed by the Financial Oversight Committee, the Superintendent, Board of Education and any authorized outside legal or specialty

consultant. When depositing proceeds from the issuance of debt, the District shall limit such investment to those authorized investments identified in this policy. Should, for example, a Trust Agreement of a particular debt issued by the District become more restrictive than the District policy on authorized investments, then the Trust Agreement shall take precedence.

#### VII. Investment Reviews

The CFO shall review quarterly reports, or as available, on investment performance and present the same to the Superintendent, Board of Education and the Financial Oversight Committee, as required, and this shall be done in a manner determined to be timely by both the Superintendent and the Board of Education.

#### VIII. Changes to Investment Policy

This policy will be reviewed on an annual basis or as is determined to be necessary by the Office of the CFO, Superintendent, Board of Education and/or as dictated by the Los Angeles County Office of Education (LACOE) policies or rules. The policy will also upon its review ensure its consistency with the objectives of income growth and safety, and changes in applicable laws and, most importantly, financial trends. Any proposed amendments to the policy will require approval by the Board of Education and, prior to submission to the Board, must be endorsed/approved by both the CFO and the Superintendent.

#### IX. Financial Professional Compliance with Investment Policy

All outside investment advisors/managers/attorneys and other financial professionals employed or retained by the District and/or its representatives including without limitation financial advisors, underwriters, bond counsel and disclosure counsel must review this policy and sign a Statement of Compliance confirming that they have reviewed this policy and will comply fully with this policy and/or all instructions delivered and approved by the Board of Education that are within applicable Government/Education Codes.

#### X. Legal Reference

The foregoing policy was developed using as its primary basis Education Codes §41001 and §41015, and Government Codes §16430 and §53601.

#### XI. No Sweat Policy

This Investment Board Policy is intended to reflect the District's position as it relates to the adoption of a "No-Sweat" Resolution. This means that the District is committed to and resolved not to knowingly invest and/or participate for the purposes of gaining increased or investment revenue with companies that knowingly align with and/or utilize "Sweat Gains" or disregard the District's language, intent or spirit of this "No Sweat" Resolution.

XII. Effective August 14, 2006, and in compliance with all applicable state and local laws and regulations, the District's School Facility Fees (developer fees) assessments for residential developments shall be \$2.63 per square foot and \$.42 per square foot for commercial developments. Additionally, the residential square footage cap of 5,000 square feet is eliminated and the "Disaster" Developer Fee Waiver provision is terminated with said benefit limited to the owner who suffered the loss.

ADOPTED  
February 17, 2005

REVISED

CSBA DATE