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CEQA FOR SCHOOL DISTRICTS

Checklist

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CEQA CHECKLIST FOR SCHOOL DISTRICTS

The following is a preliminary guideline to assist school districts in determining what level of review is required under the California Environmental Quality Act (“CEQA”, Public Resources Code §§ 21000, et seq.) when the districts build new facilities, expand or alter school sites or undertake other projects. Districts may wish to consult with their legal counsel or qualified environmental consultants to confirm the required level of review.

I. Is the action to be undertaken by the school district a “project” within the meaning of CEQA?

- A.** Is the action an “approval” within the meaning of CEQA (meaning that a decision is being made that commits the district to a definite course of action)?

YES: CEQA consideration must be given to the nature of the action (**continue to step I B**).

NO: No further analysis required. (CEQA Guideline § 15352(a).)

- B.** Is the action being taken “discretionary” (may or may not be approved at the district’s discretion) or “ministerial” (district must approve if all applicable legal criteria have been met)?

DISCRETIONARY: Must consider whether the action constitutes a CEQA “project” (**continue to step I C**).

MINISTERIAL: No CEQA analysis is required. (Pub. Resources Code § 21080(a), (b)(1); CEQA Guideline §§ 15357 & 15369.)

- C.** Will the action potentially result in a direct or indirect **change in the environment**?

YES: Preliminary CEQA analysis is required (**continue to step I D**).

NO: No further analysis required. (CEQA Guideline § 15378.)

- D.** Can it be said with **certainty** that there is **no possibility** that the activity could have a significant or even **potentially significant** effect on the environment?

YES: No further CEQA analysis is required.

NO: Preliminary CEQA analysis is required (**continue to step II**). (Pub. Resources Code § 21068; CEQA Guideline §§ 15061(b)(3) & 15382.)

II. Does the project fall into any CEQA exemption?

A. Does the project fall into any *statutory CEQA exemption*?

Examples most likely to apply to school districts:

1. Emergency repairs to a public facility necessary to maintain service;
2. Actions to repair, demolish or replace facilities damaged as a result of a disaster for which the Governor has declared a state of emergency;
3. Actions to prevent or mitigate an emergency;
4. Establishing or modifying fees; and
5. Closing of a public school *only* if the physical changes resulting from the closure are categorically exempt, as outlined in step II B.

(Pub. Resources Code § 21080(b)(2), (b)(3), (b)(4), (b)(8); Ed. Code § 94212(a).)

YES: No further CEQA analysis is required.

NO: Consideration should be given to categorical exemptions (**continue to step II B**).
(CEQA Guideline § 15061(b)(2).)

B. Does evidence support a finding that the project fall into any *categorical CEQA exemption*?

Examples most likely to apply to school districts, each of which apply only if there is no potential of a cumulative impact of successive projects of the same type:

- Class 1** Operation, repair, maintenance or minor alteration of public facilities, including: adding interior partitions, plumbing, electrical systems; restoring facilities to meet health and safety standards; landscaping maintenance, demolition of small, non-significant structures; and additions to existing structures that will not significantly increase the size of the structure;
- Class 2** Replacement or reconstruction of existing school facilities at the same capacity, or, if to provide earthquake resistance, where capacity is not increased by more than 50%;
- Class 3** New construction or conversion of small structures or installation of small equipment, except for where there is a particularly sensitive environmental setting;
- Class 4** Minor alterations to land which do not involve removal of mature, scenic trees unless for forestry and agriculture purposes; also includes grading on less than a 10% slope, minor trenching or filling of earth into excavated areas and similar minor or temporary uses of land; except where there is a particularly sensitive environmental setting;
- Class 6** Collection of data or information that would not result in a major disturbance to environmental resources, except for where there is a particularly sensitive environmental setting;
- Class 11** Construction of minor structures accessory to existing facilities, including on-premise signs or small parking lots, except for where there is a particularly sensitive environmental setting;
- Class 12** Sale of surplus property that is not of regional concern or that does not have significant environmental sensitivity;
- Class 14** Minor additions to schools, defined as additions that will not increase student capacity by more than 25% or ten classrooms, whichever is less;
- Class 22** Adoption of educational or training programs involving no physical alteration or which involve changing only the interior of a school, including changing a school's grade structure unless changes in student transportation will still be required;

Class 23 Normal operations of facilities for public gatherings; and

Class 32 In fill development in an urban area of less than 5 acres that is consistent with general plan and zoning regulations, where the site has no value as habitat for threatened species, and where the project will not have a significant effect on traffic, noise, air quality or water quality.

(CEQA Guideline §§ 15301, 15302, 15303, 15304, 15306, 15311, 15312, 15314, 15322, 15323, & 15332)

YES: No further CEQA analysis is required.

NO: Preliminary CEQA analysis is required
(continue to step III).

C. Should a **Notice of Exemption** be filed with the county clerk? (Note: filing a notice of exemption is optional.)

ADVANTAGES: Limits period for legal challenge to the school district's action to 35 days from the date of filing; without a Notice of Exemption, the period for a legal challenge is 180 days.

DISADVANTAGES: May call unwanted attention to an action being undertaken by a school district. (Pub. Resources Code §§ 21108(b), 21152 & 21167(d); CEQA Guideline § 15062.)

III. Is an Initial Study required? If the answer to step II is no, then an initial study will be required. (CEQA Guideline § 15063.)

A. Does the initial study or any fair argument forwarded to the district in response to that study reveal that the project may have a **significant or potentially significant** environmental effect?

YES: The district should consider whether a mitigated negative declaration can be used
(continue to step III B).

NO: The district should prepare a Negative Declaration. (Public Resources Code § 21080(c).)

B. Can the potentially significant effects identified by the initial study be **mitigated through revisions to the project**?

YES: The district should prepare a Mitigated Negative Declaration.

NO: The district should prepare an Environmental Impact Report (continue to step IV).
(Public Resources Code § 21080(c).)

IV. Is an Environmental Impact Report (“EIR”) required? If the answer to step III B is no, then an environmental impact report will be required. (Public Resources Code § 21080(d).)

- A. Districts should retain qualified environmental consultants and consider working with legal counsel if the more extensive EIR process is required. An EIR can take nine months or more to prepare, so districts should allow ample time when reviewing this checklist and determining whether an EIR may be required.
- B. Public Review of Draft EIR.
- C. Certification of EIR.
- D. Findings of Significant Effects.
- E. Statement of Overriding Considerations.
- F. Adoption of Mitigation Monitoring Program.
- G. Filing of Notice of Determination.



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