



August 1, 2019

Presiding Judge Ginger Garrett
Superior Court of California
1035 Palm Street Room 3555
San Luis Obispo, CA 93408

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SAN LUIS OBISPO
SUPERIOR COURT

AUG 02 2019

BY _____
DEPUTY CLERK

Dear Judge Garrett:

Enclosed, please find the San Luis Obispo County Office of Education's responses to the San Luis Obispo County Civil Grand Jury's Report, "School Developer Fees Revisited: Differing Interpretations?" Specifically, the County Office of Education provides its responses to Findings 1, 2, 7, 8, and 10, and Recommendations 2, 3, and 6 in accordance with California Penal Code, Section 933.05

As noted in the responses, per state law, the governance and management of local school districts are the responsibility of the local district superintendent and the locally elected governing board. The County Office of Education provides school districts with information and resources to assist with local administration – and has done so with regards to how school districts collect and manage developer fees. The County Office of Education also encourages all school districts to follow best practices and verify that their practices comply with state law. However, the role of the County Office of Education is prescribed by law, and it only becomes involved in daily governance and management of local school districts if granted/assigned such responsibility by the state or a local school district governing board.

Thus, while the County Office of Education will continue to provide support and guidance on this topic to local school districts, many of the recommendations made by the Grand Jury are beyond my office's authority to impose on local school districts. Should you have any additional questions, please contact my office directly.

Sincerely,

James J. Brescia, Ed.D.
County Superintendent of Schools

Reviewed
A. E. [initials]
8/5/19
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Finding 1. The failure of school districts to provide the required written notice to developers of their right to protest may extend the period in which a developer is allowed to file a suit challenging a fee and may expose the districts to potential future liability.

The County Office of Education agrees with this finding to the extent that it suggests that in some cases the failure to provide required notices may have legal consequences for school districts, but notes that to the extent the finding is a legal conclusion as to the specific actions or inactions of a school district and the legal consequences, the County Office of Education provides no opinion.

Finding 2. In the sampled school districts there is inconsistency in reporting developer fee income and expenditures.

The County Office of Education disagrees with this finding as it is unclear. The Grand Jury's report indicates that it reviewed online reports regarding developer fees for four of the County's ten school districts. Other than noting some difficulty in accessing some of these reports, the report did not detail any inconsistencies in how local school districts report developer fee income and expenditures. All reporting required by state law is a local school district responsibility, how a school district reports its developer fee income and expenditures is a matter left to the discretion and responsibility of school districts.

Finding 7. All of the sampled districts take a permissive view of the restrictions on the sort of expenditures which are allowed for developer fees.

The County Office of Education disagrees with this finding as its use of the term "permissive" is unclear. The allowable uses for developer fee income are set by statute. As noted above, an appropriate expenditure of developer fee income is a function of the local jurisdiction of locally elected governing boards and the County Office of Education has no role in these decisions.

Finding 8. It is difficult to determine whether developer fees are being maintained in a separate fund as required by law.

The County Office of Education disagrees with this finding as the Grand Jury report provides no detail to support this finding and the County Office of Education has not conducted any independent research on this question.



Finding 10. There is no general oversight exercised over the use of developer fees beyond that which may be provided by the district school boards.

The County Office of Education agrees with this finding – a school district’s use of developer fees is entrusted to the locally elected governing board of that school district. While there is no additional oversight by another governmental agency, there are no statutory or regulatory requirements for oversight beyond the locally elected governing board of that school district. Generally, any decision of a governing board as to developer fees must comply with state law. Further, each school district’s financial activity, including its accounting of developer fees, is subject to independent audit.

Recommendation 2. The County Office of Education should provide and require the school districts to use a standardized format for the notice of the right to protest the payment of developer fees. This form should be developed by January 1, 2020.

This recommendation has been partially implemented. The County Office of Education has provided a standard form to all school districts for use in collecting developer fees. The form includes notice of a payee’s right to file a protest against the imposition of the fees. The County Office of Education has also provided additional information on best practices and recommendations regarding the collection, tracking, and use of developer fees. However, implementation of these practices is within the sole jurisdiction of locally elected school boards and it is not the role of the County Office of Education to “require” school districts to adopt any specific form or practice regarding developer fees.

Recommendation 3. The Superintendent of Schools for San Luis Obispo County shall verify that every district is providing the required written notice to developers of their right to protest the imposition of developer fees.

This recommendation will not be implemented as it is not authorized by law. As noted above, the County Office of Education has provided school districts with resources regarding the collection, tracking, and use of developer fees. The County Office of Education will continue to provide information on this topic and support any school district which seeks assistance in this area. However, it is not the legal role of the County Office of Education to oversee how local school districts administer developer fees.

Recommendation 6. The School Boards for each district in San Luis Obispo County shall ensure that their district’s developer funds have been properly used and sign a certificate of compliance.

This recommendation will not be implemented by the County Office of Education as the recommendation is specifically directed to the locally elected school boards of school districts.