DEVELOPER FEES

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

Before levying developer fees, the Board shall make all findings required by law. Findings shall show a reasonable relationship between the construction or reconstruction on which the fee is imposed and the need for school facilities. A reasonable relationship shall be found between the amount of the fee and the cost of the needed school construction. All decisions to levy fees shall be based upon such reasonable relationships. Exemptions from fees shall be granted when reasonable relationships cannot be shown. (Government Code 66001)

Before levying developer fees, the Board shall schedule a public hearing at which it may adopt the resolutions required by law. The resolution adopted by the Board shall state the Board's findings which justify the fees and the conditions which have been met to allow collection of the fees at the time when building permits are issued.

The Superintendent or designee shall establish procedures for the timely and consistent levying of developer fees in accordance with the requirements of law. He/she shall cooperate with local governmental agencies in issuing building permits. Before a permit is issued, the Board shall 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)

Appeals Process for Protests by Developers:

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

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
<u>*CODE OF REGULATIONS, TITLE 2*</u>
1859-1859.106 School facility program
<u>*COURT DECISIONS*</u>
Dolan v. City of Tigard (1994) 114 S.Ct. 2309
Management Resources:
<u>*WEB SITES*</u>
Department of General Services, Office of Public School Construction:
<u>*http://www.dgs.ca.gov/opsc 2/99*</u>