

The Board of Supervisors

County Administration Building
651 Pine Street, Room 106
Martinez, California 94553-1293

John Gioia, 1st District
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Diane Burgis, 3rd District
Karen Mitchoff, 4th District
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Contra Costa County



David Twa
Clerk of the Board
and
County Administrator
(925) 335-1900

May 22, 2018

Tom Torlakson
State Superintendent of Public Instruction
California Department of Education
1430 N Street
Sacramento, CA 95814

Re: Children's Safety – School Siting, Construction, Safety Policies - Title 5 Update

Dear Superintendent Torlakson,

We are writing on the subject of school and children's safety relative to the current Title 5 update process being undertaken by the California Department of Education (CDE). Specifically, we are concerned with school siting practices relative to 1) industrial sites and related conveyance infrastructure and, 2) land use and transportation related issues.

Before discussing the specifics of our comments, the Board of Supervisors urges California Department of Education (CDE) to include a more robust web presence for the update process. There is currently limited information available on the CDE website. More comprehensive information will foster a more productive public process.

Specific comments are below, and attached to this letter are inline revisions to Title 5:

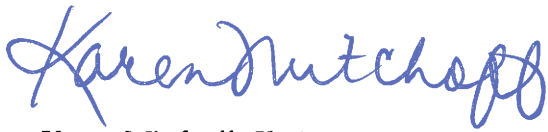
1. With the imposition of any new regulations, CDE should make every effort to ease the administrative and financial burden on local school districts. This could be done by adopting templates for use by local districts or by providing technical assistance to school districts. For example, the multi-modal circulation plan proposed further below could be prepared by the Department of Transportation.
2. CDE should develop guidelines for assessing and mitigating the risks of siting new schools near industrial facilities and rail lines due to potential explosions and fires from the use, storage, manufacture and transportation of hazardous materials, similar to the guidelines they have established for assessing and mitigating the risks from the transportation of hazardous materials through pipelines.

3. CDE should amend the regulations pertaining to the rebuilding of schools on the site of existing schools to require that the current risks from accidental explosions and fire of hazardous materials used, stored, manufactured or transported at industrial facilities, in pipelines and by rail are assessed and mitigated.
4. There are existing policies in Title 5 that, if actively enforced, would result in some improvement in school site selection. That said, for any Title 5 revisions to have a perceptible positive impact on school siting practices, they will need to be compulsory. In our numerous meetings and conversations with CDE staff and state legislators, we found there is discomfort with compulsory provisions. However, the County has direct experience with non-compulsory provisions having little or no effect on school siting decisions. We have witnessed this leading to acquisition of sites that would be extremely difficult for children to safely access on their own, that are not supported by adequate transportation infrastructure, have limited or no transit service, and would be sprawl and greenhouse gas inducing. The State should include compulsory measures to ensure reasonable school siting decisions and consider the necessary legislation to grant the requisite authority to enforce compulsory policies.
5. Multi-modal Circulation Plan: Please see Exhibit 1: School Siting – Student Safety/Multimodal Circulation Plan: Given the evolution of federal, state, and local policies regarding safe routes to schools, greenhouse gas reduction, and generally universal respect for the safety of children, we expect that implementation of this policy would have minimal resistance. One issue that should be stressed is, due to socioeconomic conditions, there will **always** be some students that have no choice but to travel to/from school under their own power by active modes. Considering that, the attached proposed policy should be considered reasonable and implemented as compulsory.
6. As California implements greenhouse gas (GHG) reduction legislation, the current model for school site selection is increasingly in conflict with model policies. Land development is increasingly prioritizing infill, which typically results in less GHG production, and reduced transportation infrastructure costs. However, infill development is often more expensive and procedurally more complex. The State may need to examine the underlying school construction finance model and fund an incentive program to allow infill sites to be economically viable for local school districts. In addition, a streamlining process to ease the development of infill sites may be beneficial and even necessary.
7. As standard practice with other State Departments during policy updates, please publish all comments on this process. The public debate would be aided by a full-airing of comments received.
8. Statutes for Local Agency Formation Commissions (LAFCOs) provide a role for Commissions in school site development and could be expanded. At a minimum, a) school districts should be required to consult with LAFCO when a new school site is being proposed, and b) LAFCO should discourage the extension of municipal services to school sites located in agricultural and open space areas pursuant to LAFCO law. More prescriptive restrictions related to the extension of municipal services should be strongly considered in areas with a voter adopted Urban Limit Line or Urban Growth Boundary.

9. At a minimum, compliance (without preemption authority) with voter adopted Urban Limit Lines and Urban Growth Boundaries should be compulsory.
10. The State should explore implementing policies developed by the Collaborative for High Performing schools. Again, any changes will likely have to be compulsory in order to be effective.
11. The State should explore opportunities to incorporate school siting practices in to the Sustainable Communities/Priority Development Area type programs. There are few land development projects that have as large or enduring effect on the character and safety of a community as a school site, and local land use planning goals and policies should be considered and respected in these decisions.
12. While outside the purview of CDE, the following should be included in a more comprehensive and strategic school safety and siting program. We urge CDE to bring these concepts to the Strategic Growth Council for their consideration:
 - a. Implement a "Vulnerable Road User Protection" (VRU) statute: VRU laws establish the concept "whoever can do the most damage has an obligation to be the most careful". Connecticut, Delaware, Florida, Hawaii, Maine, Oregon, Utah, Vermont, and Washington all have such laws, etc.
 - b. Pass an "Enhanced Penalty School Zone" statute: This could consist of a double/triple fine zone, moving violation for cell phone use, etc.
 - c. Redefinition of the school zone distances in state law: This redefinition would reflect *actual* access patterns rather than the current arbitrary distances defined in the statutes. As one member of the Caltrans Committee on Traffic Control Devices described it, there was no engineering or analysis when the original prescriptive distances in the statutes were established. Included in the reform of school zone policies should be the associated, "When Children Are Present" signage policies and underlying statutes. Current policies are widely acknowledged to be fundamentally flawed.
 - d. Implement and fund or incentivize the bicycle and pedestrian safety curriculum developed by the Strategic Growth Council and the State Health in All Policies Task Force. The program would have dual benefit of decreased injuries/deaths and increased walking/biking.
13. As stated in our numerous, prior communications, current school siting practices do not allow the County to fulfill its constitutional obligations relative to the protection of public health, safety, and welfare. As such, those obligations fall to the State and/or local school districts. Only substantive reform of school siting policies and practices will allow effective engagement by the local land use authority.

Thank you for your consideration of these comments; we look forward to your response. If you have any questions regarding this letter, please feel free to contact me or Michael Keni, Health Services Hazardous Materials Ombudsman [Michael.Kenti@hsd.cccounty.us, (925) 313-6587] or the County's Planning Director, John Kopchik [John.Kopchik@dcd.cccounty.us, (925) 674-7819, or John Cunningham, Principal Planner [John.Cunningham@dcd.cccounty.us, (925)674-7833]

Sincerely,



Karen Mitchoff, Chair
Contra Costa County Board of Supervisors

cc: Members: Contra Costa Hazardous Materials Commission
California Building Industry Association
Edmund G. Brown Jr., Governor – State of California
Members: Contra Costa County Legislative Delegation
Ken Alex, Director – Office of Planning and Research
Randall Winston, Executive Director – Strategic Growth Council
Jeff Vincent, Deputy Director – Center for Cities and Schools

Attachments

- Exhibit 1: School Siting – Student Safety/Multimodal Circulation Plan
- Exhibit 2: CCC Title 5 Comments