

Agenda Item:	IV D: Action Item
Date:	February 8, 2024
To:	Magnolia Educational & Research Foundation dba Magnolia Public Schools (“ <b>MPS</b> ”) Board of Directors (the “ <b>Board</b> ”)
From:	Alfredo Rubalcava, CEO & Superintendent
Staff Lead(s):	Patrick Ontiveros, General Counsel & Director of Facilities Mustafa Sahin, Facilities Project Manager Katrina Tomas, Assistant Project Manager
RE:	Adoption of California Environmental Quality Act (CEQA) Procedures

**1. Action Proposed:**

MPS Staff moves that the Board adopt the “Procedures Implementing the California Environmental Quality Act (CEQA)” attached as Exhibit A for the Magnolia Science Academy—5 project located at 7111 Winnetka Avenue (the “**Project**”).

**2. Purpose:**

The purpose is to align MPS operations for the Project with CEQA and fulfill state environmental standards and legal requirements. The adoption allows MPS to conduct its own CEQA analysis, necessary for CDE projects approvals.

**3. Overview of CEQA Procedures:**

The document attached as Exhibit A, prepared by John Lemmo at YMC, outlines the necessary steps and responsibilities MPS must undertake as both a Lead and a Responsible Agency under CEQA. These include the following:

- Conducting preliminary reviews of projects
- Making informed decisions on Environmental Impact Reports (EIRs) and Negative Declarations.
- Organizing public hearings for transparency and community engagement.
- Streamlining the approval processes for environmental documentation.

**4. Analysis:**

The Project does not require discretionary land use approvals from the City of Los Angeles as its zoning allows schools, like MSA-5, by right. Moreover, the particulars of the Project, including square footage, number of students and other features, do not trigger any City of Los Angeles land use approvals such as a site plan review. CEQA analyses are typically

undertaken as part of a discretionary land use approval.

Since the Project will be funded by an award from the Office of Public School Construction (the “**OPSC Award**”) under its Charter School Facility Program, the California Department of Education (“**CDE**”) must provide approval for the site. CDE requires a formal CEQA analysis for project approvals. Since there is no other public agency to oversee the analysis, MPS will prepare an analysis, either a Negative Declaration Mitigated Negative Declaration or an Environmental Impact Report, based on the level of impact. A Negative Declaration indicates no significant environmental impact, while an EIR is required if potentially significant impacts are identified. A mitigated Negative Declaration may be used if mitigation measures can reduce potential impacts to a less-than-significant level.

Based on the analysis completed to date, MPS Staff expects that a negative declaration will be appropriate for the Project. MPS Staff will ask the Board to approve the analysis and report at a future Board meeting.

**5. Significance for MPS:**

By adopting these procedures and acting as its own lead agency, MPS ensures compliance and readiness for future project approvals. This approach allows MPS to efficiently manage environmental assessments, adapting to the specific needs of each project.

**6. Budget Impact:**

All costs and expenses relating to CEQA procedures for the Project, including the costs of conducting environmental analyses and preparing reports, to the extent possible will be paid for with the proceeds of the OPSC Award.

**7. Exhibits**

- a. Exhibit A: Procedures Implementing California Environmental Quality Act

**PROCEDURES IMPLEMENTING CALIFORNIA  
ENVIRONMENTAL QUALITY ACT  
(Effective February 8, 2024)**

**MAGNOLIA EDUCATIONAL & RESEARCH FOUNDATION  
dba MAGNOLIA PUBLIC SCHOOLS**

**(“MPS” or “Magnolia”)**

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## **PROCEDURES IMPLEMENTING CALIFORNIA ENVIRONMENTAL QUALITY ACT**

SECTION 1. Purposes of Procedures. These procedures are intended to implement the purposes and provisions of the California Environmental Quality Act (“**CEQA**”), as set forth in Public Resources Code § 21000 *et seq.*, and the Guidelines for Implementation of the California Environmental Quality Act (“**CEQA Guidelines**”), developed by the Office of Planning and Research and adopted by the Natural Resources Agency, as set forth in Cal. Code Regs., tit. 14, § 15000 *et seq.*

SECTION 2. Short Title. These procedures may be cited as the “MPS CEQA Procedures.”

SECTION 3. Legal Authority for Procedures. These procedures are adopted pursuant to Section 21082 of the Public Resources Code, which requires all public agencies, as defined therein, to adopt objectives, criteria and procedures for the evaluation of projects and the preparation of environmental documentation and which requires that such objectives, criteria and procedures must be consistent with the provisions of CEQA and the CEQA Guidelines.

SECTION 4. Effective Date. These procedures shall take effect immediately upon their adoption.

SECTION 5. Incorporation of CEQA Guidelines. Pursuant to Section 15022(d) of the CEQA Guidelines, MPS adopts and incorporates by reference the CEQA Guidelines to the extent that they are applicable to local agencies such as MPS. A copy of the CEQA Guidelines shall be maintained on file at MPS’s offices with these procedures, and any future amendment to the CEQA Guidelines shall be deemed automatically incorporated into these procedures on the 120th day after the effective date of the amendment, or on such earlier date as may be required by the amendment.

SECTION 6. Supplementary Procedures. These procedures are intended to tailor the general provisions of the CEQA Guidelines to the specific operations of MPS. In the event of any irreconcilable conflict, the CEQA Guidelines shall prevail over these procedures.

SECTION 7. Additional Definitions. Article 20 (commencing with Section 15350) of the CEQA Guidelines contains definitions of terms used throughout those guidelines, unless a term is otherwise defined in a particular section. Those definitions shall apply to these procedures, and in addition thereto, the following definitions shall apply:

- (a) “Board” means the Board of Directors of MPS.
- (b) “Decision-making body,” when used in reference to MPS, means the Board.
- (c) “MPS” means Magnolia Educational & Research Foundation dba Magnolia Public Schools.

- (d) “Staff” means MPS’s Superintendent or his or her designee.

SECTION 8. Applicability. The MPS CEQA Procedures apply to any activity of MPS that constitutes a “project” which, as defined by Section 21065 of CEQA and Section 15378 of the CEQA Guidelines, is activity which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, and which is any of the following:

- (a) An activity directly undertaken by MPS including but not limited to public works construction and related activities, clearing or grading of land, improvements to existing public structures, enactment and amendment of zoning ordinances, and the adoption and amendment of local General Plans or elements thereof pursuant to Government Code Sections 65100-65700;
- (b) An activity undertaken by a person which is supported, in whole or in part, through contracts, grants, subsidies, loans or other forms of assistance from MPS; or,
- (c) An activity that involves the issuance to a person of a lease, permit, license, certificate, or other entitlement for use by MPS.

The MPS CEQA Procedures are also intended to assist MPS in determining whether a proposed activity does not constitute a project that is subject to CEQA review, or whether the activity is exempt from CEQA.

SECTION 9. Delegation of Responsibilities.

(a) Preparation of environmental documentation is the direct responsibility of MPS. However, except as otherwise provided in these procedures, all steps and functions involved in the process of preparing environmental documents are delegated to MPS’s Staff who, upon approval of the Board, may be assisted by private consultants and others pursuant to contracts with MPS. The foregoing delegation of responsibilities to Staff shall govern all projects of MPS unless otherwise ordered by the Board. Staff shall advise the Board of steps being taken in the preparation of environmental documents. The Board reserves the right to overrule any decision or conclusion of Staff, to reassign responsibilities to private consultants or a committee of the Board, or to assume such responsibilities itself.

(b) The Board shall not delegate, and hereby reserves to itself, the responsibility for:

- (i) Certifying that a final EIR has been completed in compliance with CEQA and reviewing and considering the information contained in the final EIR prior to approving the project.
- (ii) Approving a negative declaration prior to approving a project.

- (iii) Making of findings as required by Section 15091 of the CEQA Guidelines.
- (iv) Making of the statement of overriding considerations as required by Section 15093 of the CEQA Guidelines.

#### SECTION 10. Lead Agency Procedures.

10.1 Duties of Lead Agency. MPS is the Lead Agency if it will have principal responsibility for carrying out or approving a project. Where a project is to be carried out or approved by more than one public agency, only one agency shall be the Lead Agency responsible for the preparation of environmental documents. As the Lead Agency, MPS shall decide whether a negative declaration, mitigated negative declaration, or an EIR will be required for a project and shall prepare, or cause to be prepared, and consider the document before making its decision on whether and how to approve the project.

10.2 Preliminary Review. Where MPS is the Lead Agency, Staff shall act on behalf of MPS in making the preliminary review upon an application as described in Section 15060 of the CEQA Guidelines.

10.3 Notice of Exemption. If, as a result of the preliminary review, Staff determines that a particular activity is exempt from CEQA, Staff may prepare a Notice of Exemption, substantially in the form of Appendix E to the CEQA Guidelines, which shall be filed with the county clerk of the county in which the project will be located after approval of the project by the Board. However, failure to comply with this section shall not affect the validity of the approval of the project. To show compliance with requirements for Department of Fish and Game review and fees, a filing fee cash receipt, substantially conforming to the form prescribed at Title 14 California Code of Regulations § 753.5, must be attached to the Notice of Exemption when filed. Although exempt projects incur no fees, payment of up to \$50 may be required for handling by the county.

10.4 Initial Study. Where MPS is the Lead Agency, Staff shall prepare an Initial Study, as described in Section 15063(d) of the CEQA Guidelines, to determine if the project may have a significant effect on the environment. However, if it can be clearly determined without an Initial Study that an EIR will be required for the project, an Initial Study is not required.

10.5 Decision to Prepare EIR. If Staff determines that an EIR is required, it shall file with the Board a copy of its Initial Study, or if no Initial Study was prepared, a statement of its reasons why an EIR is required. If the Board concurs with the Staff recommendation, it shall direct preparation of the EIR either by Staff or pursuant to contract with private consultants.

10.6 Decision to Prepare Negative Declaration. If Staff determines from the Initial Study that there is no substantial evidence in light of the whole record that the project may have a significant or potentially significant adverse effect on the environment, Staff shall prepare a proposed Negative Declaration for public review and shall fix a date for a public hearing by the Board. Staff shall give notice to the public at least 30 days prior to the adoption by the Board of



the Negative Declaration by written notice to the city, or to the county if in an unincorporated area, in which the project is located and to all organizations and individuals who have previously requested such notice, by posting a copy at the principal office of MPS and by publication at least one time in a newspaper of general circulation in the area affected by the proposed project. The notice shall also be posted in the office of the county clerk of the county in which the project is located and shall remain posted for a period of 30 days. Staff may provide additional notice by other means. The public review period for a proposed Negative Declaration shall be at least 21 days, unless the proposed Negative Declaration must be submitted to the State Clearinghouse for review by state agencies, in which case the public review period shall be at least 30 days. At the time and place set forth in the notice, the Board shall hold a public hearing for the purpose of receiving additional comments from members of the public and interested parties.

10.7 Consideration and Approval of Negative Declaration. Prior to approving the project, the Board shall consider the proposed Negative Declaration, together with any comments received during the public review and hearing process. The Board shall approve the Negative Declaration if it finds on the basis of the Initial Study and any comments received, in the independent judgment of MPS, that there is no substantial evidence that the project will have a significant effect on the environment.

10.8 Notice of Determination. After deciding to carry out or approve a project for which a Negative Declaration has been approved, Staff shall prepare a Notice of Determination, substantially in the form of Appendix D to the CEQA Guidelines, which shall be filed with the county clerk of the county in which the project shall be located and, if the project requires the discretionary approval from any state agency, with the Office of Planning and Research. The Notice of Determination shall be accompanied by the environmental filing fee as set by the Department of Fish and Game to reimburse the Department of Fish and Game for the cost of reviewing the project, as required by Fish and Game Code § 711.4. The fee is not required if the project is within the De Minimis Impact Exemption (Section 9.17).

10.9 Notice of Preparation of EIR. If there is substantial evidence in light of the whole record which supports a fair argument that the project may have a significant effect on the environment, then an EIR is required for the project. After determining that an EIR will be required, Staff shall send by certified mail, return receipt requested, or by another method providing a record of receipt, to the Office of Planning and Research and each Responsible Agency a Notice of Preparation, substantially in the form of Appendix I to the CEQA Guidelines. This notice shall also be sent to every federal agency involved in approving or funding the project and to each trustee agency responsible for natural resources affected by the project, as provided in Section 15082 of the CEQA Guidelines. The notice shall also be sent to any city or county which borders on a city or county within which the project is located. The notice shall also be posted in the office of the county clerk the county in which the project is located and shall remain posted for a period of 30 days. In order to expedite the process, the Staff may request one or more meetings between representatives of agencies involved, and Staff may also consult directly with any person or organization it believes will be concerned with the environmental effects of the project. (See CEQA Guidelines, Sections 15082(c), 15083.)

10.10 Notice of Completion of Draft EIR. Upon completion of the draft EIR, Staff shall file with the Office of Planning and Research a Notice of Completion, substantially in

the form of Appendix L to the CEQA Guidelines. Where the EIR will be reviewed through the state review process, the Notice of Completion cover form required by the State Clearinghouse, and provided as Appendix C to the CEQA Guidelines, will serve as the Notice of Completion.

10.11 Public Review and Hearing on Draft EIR. The Board shall fix a time for public review of the draft EIR, which shall be not less than 30 days, unless the draft EIR must be submitted to the State Clearinghouse for review by state agencies, in which case the public review period shall be at least 45 days. The Board shall fix a date during the review period for a public hearing by the Board on the contents of the draft EIR. Public notice of the availability of the draft EIR and of the public hearing shall be given by publication at least one time in a newspaper of general circulation in the area affected by the proposed project. The notice shall also be posted in the office of the county clerk the county in which the project is located and shall remain posted for a period of 30 days.

10.12 Preparation of Final EIR. Following the public review period and the public hearing, and before approval of the project, the Board shall direct preparation of a final EIR, which shall include matters described in Section 15132 of the CEQA Guidelines. The Board may, but shall not be required to, provide an opportunity for review by the public of the final EIR before approving the project. At least ten (10) days before certification of the final EIR, Staff shall provide to each public agency which commented on the draft EIR during the comment period a written proposed response on the comments made by that agency.

10.13 Certification of Final EIR. Following preparation of the proposed final EIR, it shall be presented to the Board at a regular or special meeting. If the Board finds the final EIR to be in order, it shall certify that:

(a) The final EIR has been completed in compliance with CEQA; and

(b) The final EIR was presented to the Board and the Board reviewed and considered the information contained in the final EIR prior to approving the project and that approval reflects the independent judgment of MPS.

10.14 Necessity for Findings. The Board shall not approve or carry out a project for which an EIR has been completed which identifies one or more significant environmental effects of the project unless the Board makes one or more written findings described in Section 15091 of the CEQA Guidelines, based on substantial evidence, for each of those significant effects, accompanied by a brief explanation of the rationale for each finding.

10.15 Approval of Project and Statement of Overriding Considerations. After considering the final EIR, and in conjunction with the making of the foregoing findings, the Board may decide whether or how to approve or carry out a project. If the Board determines to approve a project, despite remaining significant effects on the environment found to be unavoidable, it shall state in writing the specific reasons to support this action based upon the final EIR and/or other information in the record, as required by Sections 15092 and 15093 of the CEQA Guidelines.

10.16 Notice of Determination. Staff shall file a Notice of Determination, substantially in the form of Appendix D to the CEQA Guidelines, within 5 working days

following each project approval for which an EIR was considered, as provided in Section 15094 to the CEQA Guidelines. The Notice of Determination shall be accompanied by an environmental filing fee of set by the Department of Fish and Game for the cost of reviewing the project, as required by Fish and Game Code § 711.4. The fee is not required if the project is within the De Minimis Impact Exemption (Section 9.17).

10.17 Filing of EIR. Staff shall file copies of the final EIR as provided in Section 15095 of the CEQA Guidelines.

10.18 De Minimis Impact Fee Exemption. If Staff finds that the project as a whole to be de minimis in its effect on fish and wildlife, whether or not a negative declaration or EIR is prepared, Staff may claim a de minimis exemption by completing and filing a Certificate of Fee Exemption, substantially in the form described in Section 753.5 of Title 14, California Code of Regulations. In the Certificate, the Superintendent, or his or her designee, must certify that, after an initial study by MPS, there is no evidence that the project will have anything other than a de minimis effect on fish and wildlife resources. Two copies of the Certificate should accompany the Notice of Determination when filed with the county clerk. Although exempt projects incur no fees, payment of up to \$50 may be required for handling by the county.

## SECTION 11. Responsible Agency Procedures.

11.1 Duties of Responsible Agency. When a project is to be carried out or approved by more than one public agency, all public agencies other than the Lead Agency which have discretionary approval authority over the project shall be identified as Responsibility Agencies. A Responsible Agency shall consider the environmental documents prepared or caused to be prepared by the Lead Agency and reach its own conclusion on whether and how to approve the project.

11.2 Consultation and Response. If MPS is a Responsible Agency, Staff shall respond to requests for consultation by the Lead Agency and shall designate employees or representatives to attend meetings requested by the Lead Agency to discuss the scope and content of a proposed EIR. Staff shall review and comment on draft EIR's and Negative Declarations for projects for which MPS would later be asked to approve. Staff shall specify to the Lead Agency the scope and content of the environmental information which is germane to the statutory responsibilities of MPS in connection with a proposed project. Prior to the close of the public review period for a draft EIR or Mitigated Negative Declaration, if Staff has identified one or more significant environmental impacts associated with the project under review by the Lead Agency, Staff may either: (1) submit to the Lead Agency performance objectives for mitigation measures which address any significant environmental effects identified by MPS; or (2) refer the Lead Agency to available guidelines or reference documents.

11.3 Board Consideration of EIR or Negative Declaration. Prior to reaching a decision on the project for which MPS is a Responsible Agency, the Board must consider the environmental effects of the project as shown in the EIR or Negative Declaration and, if necessary, adopt the alternatives, mitigation measures or findings referred to in Sections 15096(g) and (h) of the CEQA Guidelines. If the Board adopts mitigation measures, such mitigation measures shall be included as conditions of project approval. Those conditions of

approval may be set forth in documents properly incorporated by reference which address required mitigation measures.

11.4 Notice of Determination. Upon approval of the project by the Board for which MPS is a Responsible Agency, Staff shall file a Notice of Determination, substantially in the form of Appendix D to the CEQA Guidelines, as provided in Section 15096(i) of said guidelines.

## SECTION 12. Exempt Projects.

12.1 Categorical Exemptions. Sections 15301 through 15333 of the CEQA Guidelines list classes of projects which have been determined not to have a significant effect on the environment and which, therefore, have been declared to be categorically exempt from the requirement for the preparation of environmental documents. The Categorical Exemptions exempt MPS from the preparation of environmental documents for the projects described therein, except as provided in Section 15300.2 of the CEQA Guidelines. Set out below are several Categorical Exemptions which may apply to MPS:

(a) The Class 1 (Section 15301) exempts the repair, maintenance, and minor additions to existing facilities of 10,000 square feet or less where public facilities are available and the area is not environmentally sensitive.

(b) The Class 2 (Section 15302) exempts the replacement or reconstruction of existing schools to provide earthquake resistant structures which do not increase capacity more than 50 percent.

(c) The Class 14 (Section 15314) exempts minor additions to schools within existing school grounds to increase capacity by 25 percent or ten (permanent or portable) classrooms, whichever is less.

(d) Class 22 (Section 15322) exempts the adoption, alteration or termination or educational or training programs which involve no physical alteration in the affected area or which involve physical changes only in the interior of existing school or training structures.

The decision as to whether or not other projects are categorically exempt, and thus outside the scope of CEQA, shall be made by MPS on a case-by-case basis.

12.2 Ministerial Projects. Ministerial projects, as defined in Section 15369 of the CEQA Guidelines, are projects involving governmental decisions with little or no personal judgment by the public official as to the wisdom or manner of carrying out the project, with the public official merely applying the law to the facts as presented, without using any special discretion or judgment in reaching the decision. A ministerial decision involves only the use of fixed standards or objective measurements, and the public official cannot use personal, subjective judgment in deciding whether or how the project is to be carried out. The decision as to whether or not a proposed MPS project is ministerial in nature, and thus outside the scope of CEQA, shall be made by MPS on a case-by-case basis pursuant to Section 15268 of the CEQA Guidelines.

12.3 Statutory Exemption for School Closings. The closing of an elementary school, or transfer of students to another school, is exempt if the only physical changes involved are otherwise categorically exempt. (Pub. Res. Code § 21080.18)

SECTION 13. Forms. The CEQA Guidelines have as appendices the following forms:

Appendix C: Notice of Completion and Environmental Document Transmittal.

Appendix D: Notice of Determination.

Appendix E: Notice of Exemption.

Appendix J: Notice of Preparation.

Appendix L: Notice of Completion of Draft EIR.

The Fish and Game CEQA Implementation Regulations, found at Section 750 *et seq.* of Title 14 of the California Code of Regulations, have the following forms:

Section 753.5: Environmental Filing Fee Cash Receipt

Certificate of Fee Exemption

To the extent practical, MPS shall use such forms in providing the notices required by these procedures. However, in lieu thereof, Staff may prepare other forms for use by MPS, provided they contain the information required by the CEQA Guidelines and these procedures.

SECTION 14. Time Limits. Insofar as practical, MPS shall comply with the time limits set forth in Article 8, commencing with Section 15100, of the CEQA Guidelines. However, if Board action is required, a special meeting of the Board shall not be required solely to meet the time limits set forth therein. Matters requiring Board action need only be considered at regular meetings of the Board scheduled after any period that may be required for public notice and review. A special meeting may be called if deemed appropriate.

SECTION 15. Statutes of Limitation. Inasmuch as these procedures are intended to implement CEQA and the CEQA Guidelines, court challenges alleging failure to comply with any of these procedures shall be subject to the same limitation periods applicable to proceedings under CEQA. Any court challenge involving these procedures which is determined not to be subject to the limitations period applicable to proceedings under CEQA shall be subject to provisions of Code of Civil Procedure Section 1094.6, which is hereby declared to be applicable under such circumstances.

SECTION 16. Health Impact Review for School Facilities. When the project involves the acquisition of a school site or the construction of a secondary or elementary school, MPS shall comply with the requirements of Sections 21151.2 and 21151.8 of CEQA and Section 15186 of the CEQA Guidelines pertaining to the identification and evaluation of potential health impacts from exposure to hazardous materials, hazardous waste and air emissions.