

**STATE ALLOCATION BOARD**

1130 K Street, Suite 400  
Sacramento, CA 95814

<http://www.dgs.ca.gov/opsc>

**IMPLEMENTATION COMMITTEE MINUTES**

January 8, 2004

1020 N Street  
Legislative Office Building, Room 100  
Sacramento, CA

**Members Present**

Bruce Hancock, SAB  
Lori Morgan, OPSC  
Steve Newsom, CDE (Morning Only)  
Fred Yeager, CDE (Afternoon Only)  
Dave Doomey, CASH  
John Palmer, CASBO  
Mark Deman, LAUSD (Morning Only)  
Beth Hamby, LAUSD (Afternoon Only)  
Bill Cornelison, ACS

Dennis Dunston, CEFPI  
Constantine Baranoff, SSD  
Debra Pearson, SSSA  
Dennis Bellet, DSA  
Brian Wiese, AIA  
Gary Gibbs, CBIA  
Jay Hansen, SBCTC (Morning Only)  
Lenin Del Castillo, DOF

**Members Absent**

None

The meeting on January 8, 2004 was called to order at 9:35 a.m. The minutes from the December 5, 2003 meeting were approved as written.

**CHAIR REPORT**

The Chair provided a status of the State Allocation Board (SAB) regulations impacted by the recent Executive Order, indicating that the exception requests for the regulatory tracts that addressed Critically Overcrowded Schools and the Joint Use Programs were approved. Since the remaining regulatory tracts provide a positive impact on business and the economic interests of the State, the Chair anticipates that the regulatory changes currently being reviewed will be approved.

The Chair also announced the denial of the exception request for the regulation that provided an adjustment for increased Labor Compliance Program (LCP) costs. This affects all districts that would have received LCP increases at the January 2004 SAB and beyond. The Office of Public School Construction (OPSC) will send a letter to all school districts affected by this change. At this point it is unclear how the SAB will fund LCP adjustments as required by law.

The Chair indicated that staff will consider the request that information regarding the regulatory tracts be made available on the OPSC Web site.

The Chair announced the implementation of a toll-free complaint line (1-866-869-5063) and preliminary response mechanism to comply with Senate Bill (SB) 892, which became effective January 1, 2004. Members raised several questions regarding the internal processes used to monitor restroom maintenance complaints. The Chair indicated that SB 892 is scheduled for presentation at the next Implementation Committee meeting.

### **LEASE LEASE-BACK (LLB) AGREEMENTS**

In response to requests at the previous Implementation Committee meeting, the Chair presented his revised report, which will be presented to the SAB. The report outlines the public policy consequences relative to current interpretation of Education Code (EC) Section 17406. The report also includes pertinent law and samples of LLB competitive selection processes currently utilized by school districts. The purpose of the report is to seek the SAB's direction regarding the funding of LLB projects.

### **ADJUSTMENT TO THE NEW CONSTRUCTION GRANT FOR HAZARDOUS WASTE REMOVAL**

Staff presented proposed regulations pursuant Assembly Bill 1008, which allows for an adjustment to the new construction grant for additional, costs for hazardous waste removal. The adjustment can be made if, as a result of additional Department of Toxic Substances Control requirements, the actual amount paid by a school district for hazardous waste removal exceeds the amount of the grant apportionment for those purposes.

Concerns were expressed relating to the timeframe for reimbursement especially with respect to financial hardship districts. Although staff expressed concerns regarding sustaining the full and final apportionment requirements, staff will review the possibility for providing the mechanism for reimbursement before the final expenditure audit.

The law stipulates that the total adjusted apportionment for hazardous waste removal may not exceed the amount currently permitted in accordance with EC Section 17072.13 (the provision for the percentage cost cap for toxic site acquisition/clean-up). Staff clarified that the new construction grant would be adjusted in accordance with the funding cap in place at the time the application was received.

In response to a committee member request, this item will be presented for further discussion at the next Implementation Committee meeting.

### **CHANGES TO THE SFP JOINT-USE PROGRAM (SB 15)**

Staff continued its discussion regarding three major changes to the Joint-Use Program, previously presented at the December Implementation Committee meeting. Additionally, staff clarified the method in which the transition between current and new regulations will occur, and included the final draft of the proposed regulations.

### *Alterations to Types*

As staff stated previously, the new Type II allows for the construction of a new joint-use facility, the reconfiguration of existing school buildings, or both, in order to provide for certain minimum essential facilities (MEF). It was clarified that a facility to provide for pupil academic achievement (previously acceptable under Type I and Type III) is no longer acceptable under the new law, except under a grandfathering provision. In order for this type of facility to qualify under the grandfathering provision, plans and specifications must be accepted by the Division of the State Architect for review and approval prior to January 1, 2004.

### *Reconfiguration Defined and Proposed Implementation*

After conferring with OPSC's legal counsel, staff has further expanded the definition of "reconfiguration" to include the replacement of displaced classrooms or other MEF. As it pertains to SFP Joint Use, "reconfiguration" is now defined as "remodeling an existing school building within its current confines and/or expansion of the square footage of the existing building, and any necessary replacement of displaced classrooms or other MEF."

### *Joint-Use Partner Contribution*

Staff clarified that the state contribution for any joint-use project is fifty percent and that the matching share for financial hardship districts will not be provided by the State. Twenty-five percent is the minimum for the Joint-Use partner's contribution. In addition, the District can opt to pay up to the full 50 percent local share of eligible costs if the District has passed a bond, which specifies that the monies are to be used specifically for the purposes of that joint-use project. Staff further explained that the bond language needs to specify the Joint-Use project by name.

### *Application Submittals and Apportionments*

In response to a question from the December 2003 Implementation Committee meeting, staff clarified that Joint-Use applications are funded on a yearly cycle; they will be approved by the SAB according to the funding cycle in which they are received, and are subject to the regulations in effect at the time of the SAB approval. A concern was raised by an audience member as to which version of the *Application for Joint-Use Funding* (Form SAB 50-07) to submit to the OPSC. Staff advised that the latest version of the Form SAB 50-07 can be found on OPSC's website and should be used when submitting an application.

Proposed regulations will be presented at the January 28, 2004 SAB meeting.

## **CHARTER SCHOOL FACILITY PROGRAM REGULATION AMENDMENTS**

The discussion continued from the October, November and December meetings in implementing the changes to the Charter School Facility Program contained in SB 15. The discussion at this meeting focused on the primary outstanding issue, the establishment of funding caps for charter school projects. The Chair informed the committee of recent meetings (which have occurred since the December Implementation Committee meeting) in which the OPSC participated with the California School Finance Authority and several organizations in an effort to reach agreement on the total project funding caps. The proposal presented at the January Implementation Committee meeting reflected the consensus reached between the interested parties.

Due to the tight timeframes, and the absence of regulations available for review, there was a request to postpone the presentation of the item until the February SAB meeting. The OPSC agreed to look into the impacts of postponing the presentation of the item with its attendant regulations until that time.

## **ADJOURNMENT AND NEXT MEETING**

The meeting adjourned at 3:30 p.m. The next Implementation Committee meeting is scheduled for Friday, February 6, 2004 at 9:30 a.m. and will be held at 1020 N Street (Legislative Office Building), Room 100, in Sacramento, California.

**STATE ALLOCATION BOARD**

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**IMPLEMENTATION COMMITTEE MINUTES**

February 6, 2004

1020 N Street  
Legislative Office Building, Room 100  
Sacramento, CA

**Members Present**

Bruce Hancock, SAB	Dennis Dunston, CEFPI
Lori Morgan, OPSC	Constantine Baranoff, SSD
Fred Yeager, CDE	Panama Bartholomy, DSA
Dave Doomey, CASH	Brian Wiese, AIA (Afternoon Only)
John Palmer, CASBO	Gary Gibbs, CBIA
Mark DeMan, LAUSD (Alternate for Beth Hamby)	Blake Johnson, DOF
Bill Cornelison, ACS	

**Members Absent**

Debra Pearson, SSSA	Jay Hansen, SBCTC
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The meeting on February 6, 2004 was called to order at 9:34 a.m. The minutes from the January 8, 2004 meeting were approved as written.

**CHAIR REPORT**

The Chair welcomed Blake Johnson, new representative from the Department of Finance. Staff provided an update on the regulations impacted by the Executive Order.

***Executive Order Regulatory Update***

Four more regulatory tracts were approved in February. The following regulations are included in the approved tracts:

- Toxic Remediation
- California Schools for the Deaf and Blind
- Urban
- 60/40 Modernization Funding
- State Allocation Board (SAB) Quorum
- Charter School Facility Program
- First round of Use of Grant Changes impacting Section 1859.77.2

To date, six regulatory tracts have been approved. The two Labor Compliance tracts which include grant increases and certifications have been denied.

*Building Maintenance Account – Three Percent School District Deposit Calculation*

The Chair reported that the Office of Public School Construction (OPSC) was recently informed of legislative counsel's opinion on the calculation of the three percent contribution to the Restricted Maintenance account. The opinion states that the three percent maintenance requirement calculation may not exclude from the total of its general fund expenditures the amount that the district expends from its other restricted accounts. A report on this subject will be presented at the February 2004 SAB meeting.

**CLEAN SCHOOL RESTROOMS (Senate Bill (SB) 892 MURRAY)**

Staff reported that since the effective date of the legislation, 11 complaints have been received and that the impacted districts have been notified. Staff requested the Committee's suggestions regarding OPSC's complaint process and input on future considerations for the withholding of deferred maintenance funds. For purposes of discussion, staff presented copies of the complaint and response forms, a flow chart illustrating the proposed complaint process, and options for the withholding of deferred maintenance funds.

*Resolution at the Local Level*

Many participants felt that the matter of restroom maintenance is a local issue, and that a district's formal complaint process should be sufficient to handle restroom maintenance complaints. It was suggested that the complainant be encouraged to resolve the complaint at local level. Some felt that only in cases of extreme and persistent problems should the OPSC and the SAB be involved. The Chair proposed that staff look into the possibility of integrating the OPSC complaint process into the local complaint process.

*Disproportionate Punishment*

The question was raised as to whether the punishment is proportionate to the violation, since the entire amount of a district's deferred maintenance funds could be withheld due to a single complaint at one school in the district. Chair suggested staff seek the opinion of legal counsel regarding the language specific to the withholding process in order to determine whether the withholding could be prorated.

*Complaint Notification*

Concern was expressed regarding directing the complaint notification letter to the district superintendent, rather than the district representative. Many felt that the school's principal should be copied on the notification.

*Frivolous Complaints*

The question of how to prevent frivolous complaints was raised, especially in circumstances when the complainant remains anonymous. A member of the audience noted that the proposed process requires that the complaint be in writing, and therefore filters many of the frivolous complaints. It was suggested that the complainant also certify "under penalty of perjury" that the information on the form is correct.

### *Violation Codes*

It was suggested that the violation codes on the complaint form may unduly influence the complainant, and that the complaint form should be completed in narrative form only. Staff raised the point that the rationale for using specific violation codes was to keep the complainant within the violation parameters defined in law.

### *Interpretation of the Law*

Specifically referencing the toll-free complaint line, concerns were raised suggesting the OPSC's interpretation of the law might be excessive. Discussion continued regarding the law's requirements that the SAB determine whether a violation has occurred. The SAB would need a mechanism in place that is readily accessible to the public and that contains the specific parameters by which the OPSC would accept and process complaints.

### *Complainant Notification*

Various scenarios regarding complainant notification were discussed.

Further input was welcomed from the Committee and attendees. This item will be presented again at the March 5, 2004 Implementation Committee meeting.

## **HAZARDOUS WASTE REMOVAL COSTS (AB 1008 DUTTON)**

This item is continued from the January 2004 Committee meeting. Previously, members had requested clarification regarding the possibility of receiving reimbursement for hazardous waste/material removal costs prior to audit close-out. A previous inquiry was also made regarding the effective date of AB 1008 and who can benefit from its provisions.

### *Opportunities for Reimbursement*

Districts presently have the ability to receive compensation for hazardous waste removal costs during the following phases of a project:

- Site or Site/Design (financial hardship projects only)
- Environmental Hardship Request
- Adjusted Grant
- One-Time Early Site Audit
- Final Expenditure Audit

### *Effective Date*

Staff clarified that projects are audited according to the School Facility Program (SFP) guidelines and regulations in effect at the time the application for funding is accepted by the OPSC. A request was made to include grandfathering provisions in the SFP regulations in order to accommodate projects that did not request hazardous waste removal on the application, but were received after the effective date of the law. Staff will take this request into consideration.

Proposed regulations pertaining to AB 1008 will be presented to the February 2004 SAB meeting.

## **SFP NEW CONSTRUCTION ADDITIONAL GRANT FOR ENERGY EFFICIENCY**

The creation of a task force was precipitated by the Board's request to report on ways to ensure greater utilization of the SFP energy program. Staff presented proposed regulatory amendments which were written in response to task force discussions and relate to the new construction grant for energy efficiency.

The proposed regulatory amendments reflect changes to the formulas that calculate the additional grant for energy efficiency. The proposed calculation is based upon a more gradually stepped scale than the current calculation, and would more precisely accommodate smaller incremental increases in a project's energy efficiency score.

A suggestion was made to substitute the proposed regulation text with the actual mathematical formula used to determine the grant multiplier. Staff had considered this previously, and will reassess the rationale used to create the proposed regulatory text prior to presenting the item to the SAB.

A representative from Building Systems Management made a brief presentation on future considerations for the continued improvement of the energy program. His suggestions included easing the energy efficiency requirements for modernization projects and changing the approval processes for the OPSC and the DSA.

A suggestion was made to base the energy grant on the actual cost of the energy efficiency component. Participants pointed out that this method may not be practical, since it is problematic to assign specific monetary values for each construction component associated with creating energy efficiency.

Proposed regulatory amendments will be scheduled for the March 2004 SAB meeting.

## **ADJOURNMENT AND NEXT MEETING**

The meeting adjourned at 3:30 p.m. The next Implementation Committee meeting is scheduled for Friday, March 5, 2004 at 9:30 a.m. and will be held at 1500 Capitol Avenue, Room(s) 72.149B & 72.151A, in Sacramento, California.

**STATE ALLOCATION BOARD**

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**IMPLEMENTATION COMMITTEE MINUTES**

March 5, 2004

East End Complex  
1500 Capitol Avenue  
Rooms 72.149 B & 72.151A  
Sacramento, CA

**Members Present**

Luisa Park, SAB	Dennis Dunston, CEFPI (a.m. only)
Lori Morgan, OPSC	Constantine Baranoff, SSD
Fred Yeager, CDE	Dennis Bellet, DSA
Dave Doomey, CASH	Blake Johnson, DOF
Mark DeMan, LAUSD (Alternate for Beth Hamby)	Brian Wiese, AIA (a.m. only)
Bill Cornelison, ACS	John Palmer, CASBO

**Members Absent**

Debra Pearson, SSDA  
Gary Gibbs, CBIA  
Jay Hansen, SBCTC

The meeting was called to order at 9:32 a.m. The minutes from the February 6, 2004 meeting were approved as written.

**COMMITTEE CHAIR**

In the absence of Bruce Hancock, Luisa Park, Executive Officer of the State Allocation Board (SAB) and Office of Public School Construction (OPSC), chaired the Implementation Committee meeting.

**CLEAN SCHOOL RESTROOMS (Senate Bill (SB) 892 MURRAY)**

SB 892 and the restroom complaint processes were originally presented to the Committee in February 6, 2004. This meeting addresses the following concerns raised by Committee members and attendees at that time.

***Resolution at the Local Level***

Staff reported that the complaint form instructions had been revised to include a statement that encourages complainants to resolve the issue at the local level, and that this recommendation could also be included on the OPSC Web site. Committee members requested that the written encouragement be phrased more strongly.

Committee members also requested that Part II of the Complaint form ask for dates and details on the complainant's attempts at local resolution.

Regarding the suggestion to integrate OPSC processes with local processes, staff discovered that not all school districts have a formal complaint mechanism in place, and found little consistency in existing processes. Staff clarified that the OPSC's role is to provide the public with a standardized, universally accessible process for complaint response.

There was discussion regarding proactive ways that districts are using to prevent and address restroom maintenance issues.

### *Anonymous Complaints*

The question was raised previously as to whether the OPSC should accept and if the SAB would ultimately consider anonymous complaints. Though the complaint form requests the identification of the complainant, and does not encourage anonymous complaints, there may be some individuals who are reluctant to include their name on the complaint forms. Staff contended anonymity should not preclude a complaint from consideration because strong precedent has been set by state and local agencies with regard to the acceptance of anonymous complaints, and to invalidate complaints on the basis of anonymity diminishes an individual's lawful right to privacy and discourages the submittal of otherwise valid complaints. Staff pointed out that many of the complaints originate from school staff members. An attendee commented that the acceptance of anonymous complaints is more common in agencies where there are imminent safety issues.

Some Committee members and attendees maintained that anonymity could be used as a vehicle for frivolous complaints. Staff reminded the audience that each district maintains its right to respond to any complaints. Ultimately, the SAB will consider the weight of the evidence before making any determination.

### *Complaint Notification*

Staff reported that, since the penalty for unresolved complaints is severe and affects the entire district, the complaint notification letter will continue to be directed to the District Superintendent. Per a suggestion from the previous meeting, a copy of the complaint notification will be forwarded to the SFP District Representative. The consensus at this meeting appeared to be that school's principal should be copied on the complaint notification as well.

### *Screening/Prevention of Frivolous Complaints*

Staff pointed out various inherent filters in place to reduce frivolous complaints. The current process requires that the complaint form be submitted in writing, and the complaint form had been amended to include a complainant certification.

Additionally, to raise the complainant's awareness about the serious consequences associated with filing a complaint, and of the severity of the penalty imposed by law, the complaint form instructions now provide the information regarding the use and importance of the DM funds subject to withholding. It was suggested that this information be moved to the front of the complaint form. Staff will look into including this information on the OPSC Web site.

### *Deficiency Codes/Descriptions*

Staff stated its rationale for using specific violation codes was to keep the complainant within the violation parameters defined in law. The codes also serve to simplify the complaint response and tracking processes.

### *Complainant Notification*

In acknowledgement of a request from the previous meeting, staff will now notify the complainant as to the outcome of the complaint.

### *Prorating DM Funding*

Staff reported legal counsel's opinion that there is nothing in SB 892 or current law that authorizes the Board to withhold only a portion of the DM apportionment.

### *Proposed Timeline for DM Funds Withholding*

Staff proposed a revised timeline for the SAB determination of violations under SB 892. Unresolved complaints would be presented as informational items to the Board, and would remain on the list until they are resolved. All unresolved complaints would be presented at the August or September SAB meeting for the Board to determine whether the district is in violation of SB 892. The Chair stated the OPSC would confer with the district superintendent prior to the presentation to the August/September Board.

An exception would be made for complaints filed too late in the fiscal year to allow for SAB processing timelines and a reasonable opportunity for correction. These complaints, if unresolved, would go to the Board in August/September of the *following* year.

This item is tentatively scheduled for the March SAB meeting, and the processes will be reevaluated in approximately 9-12 months.

## **NEW CONSTRUCTION ADDITIONAL GRANT FOR REPLACED FACILITIES (AB 1631 Salinas)**

AB 1631 resulted in changes to Education Code Section 17070.46. The changes removed the requirement that the school site be on a Multi-Track Year Round Education (MTYRE) schedule, and provided clarification on application requirements and the method for the determination of site acquisition costs savings. Staff presented proposed regulatory revisions to reflect the changes in EC 17070.46.

### *MTYRE*

The MTYRE requirement will be removed in regulation and in related documents.

### *Multi-story Replacement Expenses*

Staff described changes to the additional grant for replaced facilities for situations when the replacement building is multistory. A Committee member raised a question about the interpretation of the term demolished, and asked if a "demolished" portable could be relocated to another site and used as an eligible single-story building. The Chair clarified that demolished means that the building could no longer be used.

### *Site Acquisition Costs Savings*

Staff presented the regulatory amendments regarding the site acquisition costs savings that are verified by a cost benefit analysis as indicated in the Committee item.

The current regulations stipulate that a conversion to multi-story must increase the pupil capacity by the greater of 20 percent or 200 pupils. This provision was based on the law, as originally written, which requires project pupil capacity to be maximized. Attendees expressed concern that the 200 minimum may cause overcrowding on some campuses. Attendees communicated that they were aware of several situations, which could benefit from building multistory projects, but these would not be possible since they would only increase capacity by approximately 100 pupils. Staff indicated that they would review the issue, factoring in the law's directive.

Proposed regulatory amendments to implement AB 1631 will be scheduled for the March 2004 SAB meeting.

### **CONTINUATION HIGH, COMMUNITY DAY, AND COUNTY COMMUNITY DAY**

This topic was discussed at the April, May, July and August 2003 Committee meetings. At this meeting, staff presented proposed changes to the funding method of continuation high, community day, county community and county community day schools based on the current 27 pupil loading standard. The proposal did not address modification of the classroom loading standard for alternative education pupils.

Staff clarified that the methodology behind the proposed new school allowance had not been altered from the August 2003 version, but that grant amounts had been recalculated to reflect current SFP classroom loading standards. The funding allowance applies to new alternative education schools for all grade levels and was determined by using 27 pupils per classroom as the basis for the minimum essential facility requirements.

Both Committee members and attendees expressed their concern for the safety of the pupils and staff at alternative education schools, and the incongruity between the current loading standard and practical application. There was general agreement as to the necessity to implement the recommended changes to the funding model, but members requested that the adequacy of the proposed grants be re-assessed in approximately one year's time. The Committee also requested the issue of the loading standard continue to be evaluated and brought back to the Implementation Committee if the issue is not resolved legislatively. The Chair agreed to express the Committee's concerns to the SAB.

Proposed regulatory amendments will be scheduled for the March 2004 SAB meeting.

### **ADJOURNMENT AND NEXT MEETING**

The meeting adjourned at 1:17 p.m. The next Implementation Committee meeting is scheduled for Thursday, April 1, 2004 at 9:30 a.m. and will be held at 1020 N Street (Legislative Office Building), Room 100, in Sacramento, California.

**STATE ALLOCATION BOARD**

1130 K Street, Suite 400  
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**IMPLEMENTATION COMMITTEE MINUTES**

April 1, 2004

1020 N Street  
 Legislative Office Building, Room 100  
 Sacramento, CA

**Members Present**

Bruce Hancock, SAB  
 Lori Morgan, OPSC  
 Fred Yeager, CDE  
 Debra Pearson, SSDA  
 Beth Hamby, LAUSD  
 William Cornelison, ACS  
 Gary Gibbs, CBIA

Dennis Dunston, CEFPI  
 Kathleen Moore, SSD  
 (alt. for Constantine Baranoff)  
 Dennis Bellet, DSA  
 Blake Johnson, DOF  
 Brian Wiese, AIA (a.m. only)  
 John Palmer, CASBO

**Members Absent**

Dave Doomey, CASH  
 Jay Hansen, SBCTC  
 Dennis Bellet, DSA

The meeting was called to order at 9:33 a.m. The minutes from the March 5, 2004 meeting were approved as written.

**CHAIR REPORT**

The Chair reviewed the status of the State Allocation Board (SAB) regulations impacted by the recent Executive Order (EO) and clarified that non-emergency regulations (including the 180-day tract) impacted by the EO are currently going through the normal regulatory process, which includes the appropriate sign-off process before submittal to Office of Administrative Law.

**CLEAN SCHOOL RESTROOMS [Senate Bill (SB) 892 MURRAY and Assembly Bill (AB) 1124 Nunez]**

This item continues from the February and March Implementation Committee meetings.

*Local Level Resolution*

Staff reported on additional revisions to the complaint process that would further encourage local level resolution. Final revisions to the OPSC Web site and complaint form directions now include language that more strongly encourages complainants to first communicate restroom maintenance issues to local complaint response resources.

## **CLEAN SCHOOL RESTROOMS (cont.)**

Included on the top of the complaint form and on the Web site will be a reminder that districts found to be in violation of the restroom maintenance law would be ineligible to receive deferred maintenance funding, and information regarding how deferred maintenance dollars are utilized. There was discussion as to whether this reminder strongly enough indicated the inherent irony of the penalty.

### *Amendments to DM Regulations*

Staff proposed amendments to the Deferred Maintenance (DM) regulations relating to the timeframe in which complaints would be presented to the SAB and the process for withholding of DM funds in the event that a district is determined by the SAB to be in violation of SB 892. Staff clarified that the district superintendent and the school board president would receive prior notification that the district is scheduled as a SAB report, and that the district's DM funding is in jeopardy. The proposed amendments provide for an annual presentation to the SAB for the purposes of determining violations of EC 35292.5. Districts who do not correct a violation within the 30 day notice period following the Board determination would not receive their basic grant, and the funds would be distributed to the other eligible districts.

Concerns were raised with regard to the timeframe for taking items to the SAB. It was suggested - to more precisely allow for the provision of the law, to achieve optimum parity among districts who have received complaints, and to ensure more timely addressing of complaints - that restroom maintenance items be taken to the Board on more of an "as needed" schedule, at least on a quarterly or twice yearly basis. The Chair pointed out that, though the OPSC has a responsibility to reasonably accommodate the law, it also must consider the most appropriate and efficient use of the SAB meeting as a public forum. Staff and members agreed to proceed with the current proposal with the stipulation to reassess its viability after a trial period of 9-12 months.

Proposed amendments to Section 1866.5.2, *Determination of Extreme Hardship Grant Amount and District Contribution* clarify that a district with an extreme hardship project, but deemed ineligible pursuant to SB 892, would be required to contribute an amount equal to the district and state share (i.e., two times the maximum basic grant). In response to a committee member request, staff will re-affirm with legal counsel on this issue.

### *Related Issue (AB 1124)*

Recently chaptered AB 1124 requires that a priority for the use of restricted maintenance and deferred maintenance funds be to ensure facilities (not limited to restrooms) are functional and meet local hygiene standards. Staff proposed changes to the *Application for Funding*, Form SAB 50-04, and the *Certification of Deposits*, Form SAB 40-21 to include certifications that cover the law's provisions.

The proposed regulations pertaining to SB 892 and AB 1124 are scheduled to be presented at the April 28, 2004 meeting of the SAB.

## **SCHOOL FACILITY PROGRAM MODERNIZATION [SB 15 Alpert and AB 1244 Chu]**

SB 15 and AB 1244 enable school facilities to receive an additional apportionment for the modernization of permanent school buildings every 25 years, and portable classrooms every 20 years. Staff presented proposed modifications to the SFP Regulations which would allow school districts to become eligible to receive this additional modernization funding. Additionally, staff proposed amendments that would clarify the adjustments to the SFP gross classroom inventory for permanent classrooms leased for less than five years.

### *Accommodation of Previous Lease-Purchase Program (LPP) Projects*

The discussion focused on previous LPP projects which will soon be eligible for a new round of modernization funding. Currently, a district cannot revise its SFP modernization eligibility option after submitting a funding application. Staff's proposal provides for a one-time switch from Option A to Option B in order to re-calculate modernization eligibility and accommodate the second modernization of support facilities.

### *Certification*

The law requires a school district to use the second-round modernization funds to replace the eligible portable classroom, and to certify that the replaced portable will be removed from any classroom use. Staff's proposal incorporates into the funding application certification that would specify that portable classrooms will be removed within six months of the filing of the Notice of Completion for the project.

### *Documentation Options*

The law includes accommodations for the second modernization of the portable only if the district can document that modernizing the portable classroom is a better use of public resources. Staff offered several options for districts regarding the documentation requirement, including submitting school board minutes indicating the school board's approval of the second modernization in lieu of replacement, or submitting for SAB approval a cost benefit analysis prepared and signed by a licensed design professional.

It was suggested that districts be allowed to self-certify rather than provide documentation when modernization is the appropriate alternative. Staff pointed out that the law specifically requires that a district must document its rationale for modernization in lieu of replacement. Staff agreed to look into other documentation options for the next meeting. At that time, staff will also present more examples regarding the one-time change to Option B to more clearly illustrate its affect on a district's modernization eligibility.

## **ADJOURNMENT AND NEXT MEETING**

The meeting adjourned at approximately 12:30 p.m. The next Implementation Committee will convene on Friday, June 4, 2004 at 9:30 a.m., at 1500 Capitol Ave. Rms. 72.149B & 72.151A, Sacramento, California.

**STATE ALLOCATION BOARD**

1130 K Street, Suite 400  
Sacramento, CA 95814

**IMPLEMENTATION COMMITTEE MINUTES**

June 4, 2004

East End Complex  
1500 Capitol Avenue  
Rooms 72.149 B & 72.151A  
Sacramento, CA

**Members Present**

Bruce Hancock, SAB	Dennis Dunston, CEFP
Lori Morgan, OPSC	Constantine Baranoff, SSD
Fred Yeager, CDE	Dennis Bellet, DSA
Dave Doomey, CASH	Blake Johnson, DOF
Beth Hamby, LAUSD	Brian Wiese, AIA
Cathy Allen, ACS (Alternate for Bill Cornelison)	John Palmer, CASBO
Jay Hansen, SBCTC (a.m. only)	Gary Gibbs, CBIA

**Members Absent**

Debra Pearson, SSDA

The meeting was called to order at 9:35 a.m.; there were 14 members present and 1 absent. The minutes from the April 1, 2004 meeting were approved as written. (The May 7, 2004 Implementation Committee Meeting was cancelled.)

**COMMITTEE CHAIR**

The Chair recognized Cathy Allen as the alternate for Bill Cornelison.

**CRITICALLY OVERCROWDED SCHOOLS (COS) PROGRAM**

T.J. Rapozo and Jessica Parr of the OPSC staff presented this item and discussed the current eligibility requirements established for the conversion of COS projects. The Committee noted that COS provisions are not a separate program, but rather a preliminary step to establish a reservation of funding prior to complying with all normal School Facility Program (SFP) new construction project requirements.

Various participants in the COS Program voiced concerns regarding the second eligibility check at the time of conversion. Discussion included the following:

- Contention that the cohort survival projection method (per the Education Code) was not an accurate projection calculation in all instances.
- If a project was started and is not able to obtain funding, the community support for the project and district would be lost due to the time and money invested.

## **CRITICALLY OVERCROWDED SCHOOLS (COS) PROGRAM** (cont.)

- Due to rapid growth and necessity for immediate facilities, many pupils are being bussed from one High School Attendance Area (HSAA) to another HSAA. Enrollment is counted by CBEDS, not attendance; therefore, the density of pupils in one HSAA is not captured accurately. The Committee commented that this issue appears to have merit which would support an alternate method of eligibility justification and noted possible upcoming legislation to address the issue.

Staff outlined the following alternatives:

- (1) Modify calculation of un-housed pupils, using one or more of the following methods: a) current enrollment, instead of projection; b) a 3 year projection instead of 5 year projection; c) changing the number of years of data included in projection; or d) using residence data instead of enrollment to create projection.
- (2) Establish “un-housed need justification with Qualifying Pupil (QP) check before 2 years (to determine if district’s sites are still overcrowded), plus a Multi-Track Year-Round Education requirement and an SFP eligibility update after 2 years.
- (3) Not requiring an eligibility check at the time of conversion.

Participants voiced the following alternatives to staff’s proposal:

- Strong support was expressed for consolidation of (a) and (d) from above, which could take into consideration the current year CBEDS and residence.
- No re-justification of eligibility, similar to the Charter School Facilities program.
- A check of the QPs but not the SFP eligibility, without the MTYRE requirement.
- Reporting residence data (instead of CBEDS) utilizing the current year enrollment, rather than a projection.

It was the consensus of Staff and the Committee that some type of second check of the district’s SFP eligibility at the time of conversion is necessary in light of the intent of the SFP program to provide housing for un-housed pupils. Among eleven of the fifteen school districts directly involved in the COS Program, there was unanimous agreement that a check of the QPs without the MTYRE requirement would work best for them as a supplemental test to be applied if the new construction eligibility was insufficient at the time of the submission of the project conversion application. These COS districts also indicated that Alternative Number 1 a. and d. would be a fair and practical test of continued need.

Staff’s report and the Chair indicated that all of the changes discussed would require legislative change. The Chair responded to questions about the cohort language in law by indicating that the SAB approved cohort projection method, that was in place at the time that SB 50 was written, is the method that the law requires the SFP to use. The OPSC staff will prepare a report to the SAB reflecting the alternatives as refined by the Committee’s discussion and that indicates that some urban districts have concerns with the accuracy of the cohort calculation.

## **SCHOOL FACILITY PROGRAM MODERNIZATION (SB 15 and AB 1244)**

Eric Bakke of the OPSC staff presented this item which was continued from the April 1, 2004 Implementation Committee meeting. Since the provisions of AB 1244 and SB 15 and were enacted to:

- Allow districts to receive an additional apportionment for the modernization of permanent school buildings every 25 years, or portable classrooms every 20 years, after the date of the previous State apportionment.

## **SCHOOL FACILITY PROGRAM MODERNIZATION (SB 15 and AB 1244) (cont.)**

- For a portable classroom that is eligible for a second modernization, require school districts to use the modernization funds to replace the portable classroom and to certify that the existing portable classroom will be removed unless the school district is able to document that modernizing the portable classroom is a better use of public resources.
- Stipulate that the replacement of the portable classroom(s) will not affect the capacity and eligibility of the school district and may not be adjusted.

Staff revised its proposal to permit a variety of documentation methods, including other evidence satisfactory to the State Allocation Board (SAB), when districts request the second modernization of a portable classroom in lieu of its replacement. Staff also clarified that districts could switch the modernization options previously selected on the *Eligibility Determination*, Form SAB 50-03. Staff provided examples of various funding scenarios to illustrate how modernization eligibility is affected by a switch in options. Since each option is capped, either by classroom capacity or by enrollment of the site, a school site cannot gain more eligibility than it would otherwise be eligible. Consequently, staff proposed that districts should be given the opportunity to switch options at any time as appropriate.

The item will be presented to the June 2004 SAB meeting for adoption and approval.

## **MODERNIZATION – 50 YEAR OLD PUPIL GRANTS**

Staff members Liz Yokoyama and Karen Sims presented clarification amendments to Regulation Section 1859.78.8 which delineates the manner in which 50-year old pupil grants are calculated pursuant to Education Code (EC) 17074.26. The regulation amendments presented by staff clarify the meaning of the work “project” for purposes of reporting the 50-year old or older classrooms and square footage to determine the appropriate grants. Misinterpretation had been taking place that resulted in the erroneous completion of the classroom/square footage information assigned to 50 year old pupil grants on the Application for Funding.

As the proposal was presented, Staff clarified that the 50-year old pupil grant was merely a “subset” of the site’s eligibility (not added to the site’s modernization baseline). Staff also reiterated that, as with all modernization eligibility, the 50-year old pupil grants:

- Are “bank” of eligible modernization grants
- Can be utilized as districts deem appropriate as long as the cumulative number of 50-year old pupil grants requested in all modernization funding applications for the site is not exceeded.

The clarifications to the regulations will be presented to the June 2004 State Allocation Board for adoption and approval.

## **ADJOURNMENT AND NEXT MEETING**

The meeting adjourned at 3:40 p.m. The next Implementation Committee meeting is scheduled for Friday, July 9, 2004 at 9:30 a.m. and will be held 1500 Capitol Avenue, Room(s) 72.149B & 72.151A, in Sacramento, California.

**STATE ALLOCATION BOARD**

1130 K Street, Suite 400  
Sacramento, CA 95814

**IMPLEMENTATION COMMITTEE MINUTES**

July 9, 2004

East End Complex  
1500 Capitol Avenue  
Rooms 72.149 B & 72.151A  
Sacramento, CA

**Members Present**

Bruce Hancock, SAB  
Lori Morgan, OPSC  
Fred Yeager, CDE  
Dave Doomey, CASH  
Beth Hamby, LAUSD  
Bill Cornelison, ACS  
Debra Pearson, SSDA

Dennis Dunston, CEFPI (Mid-a.m. on)  
Constantine Baranoff, SSD  
Dennis Bellet, DSA  
Blake Johnson, DOF  
Brian Wiese, AIA  
John Palmer, CASBO  
Gary Gibbs, CBIA

**Members Absent**

Jay Hansen, SBCTC

The meeting was called to order at 9:37 a.m.; there were 14 members present and 1 absent. The minutes from the June 4, 2004 meeting were approved as written.

**COMMITTEE CHAIR**

The Chair introduced and welcomed the Office of Public School Construction's (OPSC) new Deputy Executive Officer, Jacqueline R. Wilson. He also announced that the July 2004 State Allocation Board (SAB) meeting was moved to August 4, 2004 and will be held at the State Capital.

A request was made by Committee members to reschedule the next Committee meeting to Thursday, August 5, 2004 to accommodate travelers attending both the SAB and Implementation Committee meetings. The Chair accepted the proposal. The date and location of the next meeting will be posted on the OPSC Web site.

**BIDDING CLIMATE REPORT**

The Chair summarized the Bidding Climate Report (the "Report") presented at the June 24, 2004 SAB meeting. The SAB had previously requested that staff outline what could be done administratively to assist districts in dealing with the high bid climate. The Chair requested that the Committee focus its discussions on this issue by directing its attention on an action plan that would not require the implementation of a lengthy legislative process. This would better serve the districts in finding a timely means to address the situation. As such, Committee members and participants were asked to prioritize and limit the topics to be discussed. It was decided that the primary focus

of the discussion would be the first three “Considerations” listed on the Board item as follows:

1. The creation of an additional grant for technology.
2. Provide an additional eligibility category for site development costs.
3. Re-evaluating and changing the index used to base the Class B Index currently used by the SAB.

To illustrate the manner in which school districts are affected by the high bid climate, Dave Doomey provided a comparative timeline study of four schools constructed in his district within a three-year period. The schools were constructed with the same plans on similar sites in terms of acreage/typography. Over a three-year period, the costs for the project had risen from \$7.1 million to \$13.6 million. Dave indicated he would provide further project details.

With respect to the ensuing discussions regarding the factors that have contributed to the escalating bid climate, participants brought to light the following:

- The Marshall & Swift Company (MSC) cost index currently used to determine the Class B Index does not represent the costs reported by school districts. This was attributed to the fact that the MSC index did not include the profit contingency as a factor in its cost measurements.
- Although the current market has been escalating in terms of construction activity, labor and supply shortages, etc., the action taken to accommodate this escalation should be flexible enough to address a reversal of the bidding climate. It was noted that caution was in order to avoid over-reaction and to ensure well-thought out recommendations.
- In terms of determining what a grant consists of, “general site” is an area that may be in question and will be reviewed.
- Any increase to the base grant has a direct influence on Level 2 fees. Also, increases to the base grant are not in the Committee’s authority and any changes must be accomplished legislatively.
- Since a contractor’s perspective on the bidding climate was needed, Gary Gibbs from CBIA volunteered to obtain that information for our next meeting.

This item will be continued at the August Implementation Committee meeting.

### **DWELLING UNIT AND STUDENT YIELD FACTOR AUGMENTATIONS**

OPSC staff members Eric Bakke and Heather Doherty presented this item. The information clarified Education Code Section 17071.75(a) which provides for districts to augment the five-year enrollment projection by the number of un-housed pupils that are anticipated as a result of dwelling units proposed pursuant to approved and valid tentative and final subdivision maps. Staff gave emphasis to the fact the law defines what can be counted and when to start counting dwelling units, but it does not specify when to stop reporting dwelling units. Staff discussed three possible stopping points at the meeting:

- *Permits Pulled* – School districts would stop reporting dwelling units at the point in time permits were pulled for construction.
- *Permits Pulled, plus 6 months* – School districts would have an additional six months after the permit is pulled, in which to report dwelling units.
- *Date of Occupancy* – School districts would have the ability to report dwelling units until the time the dwelling is occupied.

Each option was thoroughly discussed. Based on comments from the Committee and audience members, Staff will prepare additional options to be discussed at the next Committee meeting.

Additionally, Staff discussed the Student Yield Factor Report and proposed specific language to be added to the *School Facility Program Guidebook*. The additional language is intended to clarify the basis of a district's Student Yield Factor Report.

### **PURCHASE AND CONVERSION OF NON-CONFORMING BUILDINGS FOR SCHOOL USE**

OPSC staff member Masha Lutsuk presented a discussion item regarding the ability to purchase and convert non-conforming buildings for school use and possible funding options within the SFP provisions. Two possible options for increasing the current grant amounts were presented at the meeting. The first option involves the creation of a supplemental grant and the second option involves an increase in the site acquisition grant beyond the land value of the site. Both options include an analysis of cost savings over traditional demolition and rebuilding projects. Staff and the Committee looked favorably on the second option as it allowed for certain portions of the building costs to be included in the site acquisition grant. The audience expressed concern with districts' ability to obtain an accurate cost estimate for retrofit work. Other concerns include the applicability of the 60 percent commensurate test to retrofit projects, as well as the issue of determining the number of pupil grants a district can request to fund existing buildings.

This item will be continued at the August Implementation Committee meeting. The OPSC requested districts' project examples to incorporate into the discussion at the next meeting.

### **ADJOURNMENT AND NEXT MEETING**

The meeting adjourned at 3:30 p.m. The next Implementation Committee meeting is scheduled for Thursday, August 5, 2004 at **10:00 a.m.** and will be held at the Legislative Office Building, 1020 N Street, Room 100, Sacramento.

**STATE ALLOCATION BOARD**

1130 K Street, Suite 400  
Sacramento, CA 95814

**IMPLEMENTATION COMMITTEE MINUTES**

August 5, 2004

Legislative Office Building  
1020 N Street, Room 100  
Sacramento, CA

**Members Present**

Bruce Hancock, SAB	Dennis Dunston, CEFPI (Mid-a.m. on)
Lisa Constancio, OPSC (Alternate for Lori Morgan)	Kathleen Moore, SSD
Fred Yeager, CDE	Dennis Bellet, DSA
Dave Doomey, CASH	Blake Johnson, DOF
Beth Hamby, LAUSD	Brian Wiese, AIA
Bill Cornelison, ACS	John Palmer, CASBO
Debra Pearson, SSDA	Gary Gibbs, CBIA

**Members Absent**

Jay Hansen, SBCTC

The meeting was called to order at 10:05 a.m.; there were 14 members present and 1 absent. The minutes from the July 9, 2004 meeting were approved as corrected. The minutes were corrected by adding the following statement in the Bidding Climate Report section of the minutes:

"It was also discussed that the Marshall Swift Index might not be the appropriate index for the Program."

**BIDDING CLIMATE REPORT**

This item is continued from the August Implementation Committee meeting. Staff members, Janna Schaffer, Heather Dougherty, Tasha Adame, Melissa Ley and Eric Bakke presented this item. Staff's presentation focused on the following for consideration and discussion:

- Change in the current Class B Index
- Modifying existing law to adjust the index more frequently
- Adjusting the State apportionment based on the bid opening date.

Staff reviewed all indices presented in the Bid Climate Report and determined that Marshall and Swift indices are Class B indices, whereas the Engineer News Report (ENR) and Lee Saylor indices were considered similar to the Class B index. It was Staff's position that using ENR and Lee Saylor indices would require a legislative change. Staff compared the three Marshall and Swift indices and determined that Marshall and Swift index/10 western states and Marshall and Swift index/San Francisco and Los Angeles do not accurately portray the bidding climate in California.

Staff's position was to change the current index to Marshall and Swift Class B index/8 California cities which best reflects construction costs in California.

There was much discussion that this was a minimal change at best and would not "fix" the bidding climate issues incurred by the school districts. There was mention that there is a subcontractor index but no index that includes all costs. The audience felt that a complete index could be created that would include building material increases and profit and overhead margin.

OPSC believes that any index other than Class B would require a legislative change and could not be addressed quickly. Staff realizes that the Marshall and Swift Class B/8 California Cities is only a "quick fix" measure but it would need only a regulatory change.

Staff will present the changes in regulation to the September IMP Committee for review and discussion and present the regulation changed to the SAB at the September 2004 meeting, so it could be in effect by January 2005.

Staff is in the process of creating a survey to better understand individual districts' issues to gain further insight on the bidding climate problems and how best to address them.

For the September IMP committee meeting, OPSC staff will prepare a grant study to determine if General Site is included in the Base Grant, in addition to the change to the regulations for discussion. Furthermore, Panama Bartholomy, DSA and Dennis Dunston, CEFPI will present a study at the next IMP meeting on Technology and ADA increases due to code change requirements. OPSC would be available to assist in the study if needed.

### **ENROLLMENT PROJECTION AUGUMENTATION AND STUDENT YIELD FACTOR**

This item is continued from the August Implementation Committee meeting and was presented by OPSC staff members Eric Bakke, Melissa Ley and Heather Doherty. Staff clarified the provisions contained in Education Code (EC) Section 17071.75(a), which allows districts to augment its five year enrollment projection by the number of un-housed pupils that are anticipated as a result of dwelling units proposed pursuant to approved and valid tentative and final subdivision maps. It was emphasized that of the EC clearly defines in law as to what can be counted and when the counting of dwelling units can start, but it does not specify when it stops reporting dwelling units. Staff discussed two additional stopping points at the meeting.

1. *Permits Pulled, plus 12 months* – School districts would have an additional 12 months after the permit is pulled, in which to report dwelling units.
2. *Permits Pulled, plus 18 months* - School districts would have an additional 18 months after the permit is pulled, in which to report dwelling units

Staff recommended the time period of *Permits Pulled, plus 12 months* be used as the stopping point. Based on comments from the Committee and audience members, Staff will prepare a final option that will allow districts the choice of either *Permits Pulled, plus a specified amount of time* and/or the *Date of Occupancy* at the next Committee meeting. Staff will provide regulatory changes and adjustments to the forms that incorporate the new proposed language.

Proposed changes to the *School Facility Guidebook* that clarify the basis of a district's Student Yield Factor Report was also discussed. Based on comments from Committee and audience

Members, Staff will proceed with the language as presented. Additionally, the Cohort Study Projection was presented demonstrating that the statewide average student yield factors accurately portray the number of students projected in five years.

This item will be continued at the September Implementation Committee meeting.

### **PURCHASE AND CONVERSION OF NON-CONFORMING BUILDINGS FOR SCHOOL USE**

This item is continued from the August Implementation Committee meeting. A second round of discussions was presented by staff member, Masha Lutsuk on topic of available funding for projects involving non-conforming buildings. Ms. Lutsuk presented a new funding approach for non-conforming buildings that require retrofitting. Additionally, the Education Code was clarified to explain that for purposes of the discussion, conversion cost funding does not extend to privately funded schools.

The OPSC suggested a case-by-case review of projects requesting grants that exceed the funding available under the current Regulations. Staff and the Committee did not pose any objections to using this option; however, questions were raised regarding specifics of the case-by-case review. Applicability of the 60 percent commensurate test was addressed. Staff believes that the test should not be eliminated; but rather, modified to fit projects in which part of the construction cost is represented by the value of an existing building. Another question posed during the meeting was related to the conversion of existing buildings to a non-classroom function such as school administration office and construction of a new school on the same site. OPSC staff will consider this element when drafting new Regulations for a case-by-case project review.

Staff's proposal included the use of a qualifier. For discussion purposes, 25 percent was randomly selected. This percentage applies to the value of the acquired building in relation to the amount of the per pupil base grant based on the number of pupils to be housed in the project. Staff will continue to develop the idea of the qualifier for discussion at the next meeting.

This item will be discussed at the next Implementation Committed meeting. The OPSC will continue developing the methodology for case-by-case project review that will be incorporated into new regulations.

### **ADJOURNMENT AND NEXT MEETING**

The meeting adjourned at 3:33 p.m. The next Implementation Committee meeting is scheduled for Thursday, September 2, 2004 at 9:30 a.m. and will be held at the Legislative Office Building, 1020 N Street, Room 100, Sacramento.

**STATE ALLOCATION BOARD**

1130 K Street, Suite 400  
Sacramento, CA 95814

**IMPLEMENTATION COMMITTEE MINUTES**

September 2, 2004

Legislative Office Building  
1020 N Street, Room 100  
Sacramento, CA

**Members Present**

Bruce Hancock, SAB	Dennis Dunston, CEFPI
Lori Morgan, OPSC	Constantine Baranoff, SSD (Afternoon only)
Fred Yeager, CDE	Richard Conrad, DSA (Alternate for Dennis Bellet)
Terry Bradley, CASH (Alternate for Dave Doomey)	John Palmer, CASBO
Beth Hamby, LAUSD	Debra Pearson, SSDA
Bill Cornelison, ACS	

**Members Absent**

Jay Hansen, SBCTC	Blake Johnson, DOF
Brian Wiese, AIA	Gary Gibbs, CBIA

The meeting was called to order at 9:37 a.m.; there were 11 members present and 4 absent. The minutes from the August 5, 2004 meeting were approved with a minor modification. The minutes were corrected to reflect the attendance of Terry Bradley, alternate for CASH.

The Chair also welcomed and acknowledged the presence of the two alternates; Terry Bradley for CASH and Richard Conrad for the Division of the State Architect.

It was announced that the primary topics of the next few Implementation Committee meetings would be focused on the development of new regulations pursuant to the Williams settlement legislation for January 2005 State Allocation Board (SAB) approval.

An inquiry was made by Beth Hamby of Los Angeles Unified School District (LAUSD) regarding the feasibility of holding Implementation Committee meetings in Ontario. The Chair indicated that consideration would be given for the 2005 meetings.

**BIDDING CLIMATE REPORT**

This item was continued from the July and August Implementation Committee meeting. Staff members Tasha Adame, Janna Shaffer, and Melissa Ley presented this item. Staff's presentation focused on the change in the current Class B Index to Marshall and Swift Class B Index/8 California cities which best reflects construction costs in California. Staff will present the changes in regulation to the SAB at its September 2004 meeting, so that it could be in effect by January 2005. The audience discussed two methods to determine the grant amount from the Construction Cost Index (CCI) change. The first method was to recalculate the grant from 1998 to 2005 and the second method was to increase grant amount just beginning in 2005. It was determined that prior

to the September SAB the Office of School Construction (OPSC) will determine which method of calculation will occur.

Staff reported its findings regarding the Lee Saylor Subcontractor Index which is not considered to be a Class B index and was deemed inappropriate to pursue. Staff is considering developing a survey to better understand individual districts' issues to gain further insight on the bidding climate problems and how best to address them.

For the October IMP Committee meeting, Panama Bartholomy, DSA and Dennis Dunston, CEFPI will present information on project cost increases due to code change requirements especially relating the Americans with Disabilities Act and technology advancements. Lyle Smoot, LAUSD, indicated that the LAUSD staff would conduct a preliminary assessment of their project cost data to see if it was worth pursuing a study on general site costs.

### **ENROLLMENT PROJECTION AUGUMENTATION AND STUDENT YIELD FACTOR**

This item was continued from the July and August Implementation Committee meetings. Staff members Melissa Ley and Eric Bakke made the final presentation regarding the appropriate stopping point for reporting dwelling units on the *Enrollment Certification* (Form SAB 50-01). After discussion at the September Implementation Committee meeting, Staff concluded the two stopping point options were as follows:

1. *Permits Pulled, plus 12 months* – School districts would have an additional 12 months after the permit is pulled, in which to report dwelling units.
2. *Date of Occupancy* - School districts would have the ability to report dwelling units up until the date the dwelling unit is occupied.

All proposed regulatory changes will be presented to the September 2004 SAB.

### **PURCHASE AND CONVERSION OF NON-CONFORMING BUILDINGS FOR SCHOOL USE**

This item is continued from the July and August Implementation Committee meeting. The OPSC discussed proposed regulation changes that outlined the process and requirements for receipt of increased funding for projects involving retrofit of non-conforming buildings. The Chair commented on the complexity of the issues and the absence of real-life cases that could be used to test the proposed requirements. In addition, the future number of these projects is believed to be very small. Thus, the OPSC (with no objection from the Committee and the audience) concluded the discussion on this topic by proposing no change to current policy. Projects requiring higher funding amounts than provided by the current policy may be presented to the State Allocation Board via an appeal. In the future, it may be possible to develop regulations that govern the review and funding of such projects, if warranted, after the OPSC has had an opportunity to review several of these projects.

### **ADJOURNMENT AND NEXT MEETING**

The meeting adjourned at 2:30 p.m. The next Implementation Committee meeting is scheduled for Thursday, October 1, 2004 at 9:30 a.m. and will be held at 1500 Capitol Avenue, Rooms 72.149B & 72.151A, Sacramento.

**STATE ALLOCATION BOARD**

1130 K Street, Suite 400  
Sacramento, CA 95814

**IMPLEMENTATION COMMITTEE MINUTES**

November 5, 2004

East End Complex  
1500 Capitol Avenue, Rooms 72.149B & 72.151A  
Sacramento, CA

**Members Present**

Bruce Hancock, SAB  
Lori Morgan, OPSC  
Fred Yeager, CDE  
Dave Doomey, CASH  
Beth Hamby, LAUSD  
Bill Cornelison, CSESA  
Brian Wiese, AIA

Dennis Dunston, CEFPI  
Constantine Baranoff, SSD  
Dennis Bellet, DSA  
John Palmer, CASBO  
Gary Gibbs, CBIA  
Lyn Padesto, DOF (Alternate for Blake Johnson)

**Members Absent**

Jay Hansen, SBCTC

Debra Pearson, SSSA

The meeting was called to order at 9:37 a.m.; there were 14 members present and 2 absent. The minutes from the September 2, 2004 meeting were approved as written.

**BIDDING CLIMATE REPORT**

A report prepared by the Division of the State Architect and Dennis Dunston from CEFPI was distributed at the meeting. The report contains information on project cost increases due to code change requirements as it relates to the Americans with Disabilities Act and technology advancements. The Chair accepted the report and indicated the report's findings would be discussed at a future meeting.

**WILLIAMS SETTLEMENT LEGISLATION****SENATE BILL(SB) 6****General**

The topic was introduced by Bruce Hancock and Lori Morgan and presented by Office of Public School Construction (OPSC) staff members Lindsay Ross, Masha Lutsuk and Beatriz Sandoval. There was extensive discussion regarding the number of the eligible schools on the list published by the California Department of Education (CDE) and the possibility that Senate Bill 6 may not provide sufficient funding to award grants to all eligible schools. The OPSC stated that the number of eligible schools has not been finalized and at this time it cannot be determined whether funding is adequate and that a legislative remedy may be required to address the issue of insufficient funding. In addition, concern was expressed about subsections (c) and (d) of Section 1859.311, which appears to exclude schools that lease portables from a private entity and the definition of classroom-based instruction that appears to be in conflict with the way the State Board of Education (SBE) and CDE define the term. OPSC agreed to look into it.

### School Facilities Needs Assessment Grant Program Regulations

OPSC clarified that assessment data must be submitted through the on-line submittal program that will be accessed through the OPSC website; however, it would be permissible to use needs assessment grant funds to perform a more comprehensive assessment than the OPSC requires. Discussion about the qualifications of the inspector, identified in Section 1859.314, included concerns about situations when a firm is contracted for the assessment, as well as the intent of subsection (b) which calls for a “non-interested third party” and (b)(4) which details the situation when districts may use their own staff. OPSC agreed to review this section. OPSC also agreed to consider making the progress report required by Section 1859.315(a) a web-based submittal.

### School Facilities Needs Assessment Grant Program Form SAB 61-01

Committee members requested that terms be defined and the word “interior” in reference to the square footage calculations be deleted to ensure consistency with the definitions and practices districts are familiar with through other State Allocation Board (SAB) administered programs. Several attendees expressed concern about the detail required in the facility inspection. OPSC explained that the information being requested reflects the requirements of the statute and professional inspectors will have to determine the level of inspection needed to generate the data required. However, OPSC did agree to consider revisions to the form to account for a possibility of many professionals with different areas of expertise participating in the assessment. Also, some districts expressed concern with the amount of data entry required for the completion of the needs assessment and suggested an electronic transfer of data from districts’ existing systems into the OPSC’s online database. The OPSC agreed to contact the interested districts to discuss.

### Emergency Repair Program

Concerns were expressed about how OPSC will look at those funds when determining financial hardship eligibility for School Facility Program (SFP) projects since this program is a reimbursement program and districts will have to secure interim funding to make repairs. The OPSC agreed to consider changes to the SFP regulations to account for this.

There was significant concern about what constitutes a health and safety hazard. The OPSC clarified that this means an item that in its current condition poses a risk to the health or safety of pupils or staff while at school. These are repairs that must be made, regardless of funding availability, to get the school functioning safely again, and this reimbursement funding is not intended for maintenance such as would occur at the end of the life cycle of a component or system. It was further stated that a portable is not considered a building system. The OPSC stated that a portable would not be considered a building system according to the use of the word “systems” in the context of the SB 6. It was suggested that OPSC look into having a pre-approval process or a telephone number for districts to call to get our opinion on whether a project would be eligible under the Emergency Repair Program (ERP) project. The OPSC will consider that possibility. Districts also asked about the distinction between projects under this program and SFP facility hardship/rehabilitation. OPSC clarified that this program is the repair or replace building components that have failed. Also, the ERP project must be for the mitigation of conditions that in their present state pose a health or safety hazard rather than a potential threat to pupils and staff while at school.

It was brought to the attention of OPSC that projects reviewed by the Division of the State Architect (DSA) for approval may be subject to Americans with Disabilities Act access compliance upgrades which will significantly increase the cost of projects, and whether the ERP will pay for that work even though it may not be needed to mitigate the health and safety hazard. OPSC agreed to research this issue and clarify in the regulations.

Other items where further clarification was requested are:

- Use of ERP funds for force account labor.
- Supplement versus supplant requirement.

## **SENATE BILL (SB) 550**

Staff's presentation focused on the two parts of SB 550, which impact the OPSC, the facilities inspection system and the Interim Evaluation Instrument (IEI).

Staff clarified that all school districts who participate in the SFP and the Deferred Maintenance Program will need to establish a school facilities inspection system.

In addition, Staff presented a draft of the IEI at the meeting. Audience members from various parties had differing opinions on who is to use the IEI and for what purpose. Since OPSC was not charged with determining who is to use the IEI, Staff agreed to revise the General Information section of the form in alignment with the text of the statute.

Furthermore, there was discussion regarding the certification section of the IEI (Part M). Some audience members were concerned with the liability of the language in the evaluator's certification. Additionally, there were concerns that the second certification placed additional responsibility on the individual who accompanied the evaluator. Staff agreed to revise the certifications.

Finally there was discussion on the checklist items in the document (Parts A-L). The OPSC will incorporate some of the suggestions in the next draft, such as eliminating the word "toxic" in Part G.

## **ADJOURNMENT AND NEXT MEETING**

The meeting adjourned at 3:30 p.m. The next Implementation Committee meeting is scheduled for Friday, December 3, 2004 at 9:30 a.m. and will be held at 1500 Capitol Avenue, Rooms 72.149B & 72.151A, Sacramento.

**STATE ALLOCATION BOARD**

1130 K Street, Suite 400  
Sacramento, CA 95814

**IMPLEMENTATION COMMITTEE MINUTES**

December 3, 2004

East End Complex  
1500 Capitol Avenue, Rooms 72.149B & 72.151A  
Sacramento, CA

**Members Present**

Bruce Hancock, SAB

Lori Morgan, OPSC

Fred Yeager, CDE

Dave Doomey, CASH

Beth Hamby, LAUSD

Bill Cornelison, CSESA

Brian Wiese, AIA

Jay Hansen, SBCTC (morning only)

Dennis Dunston, CEFPI

Constantine Baranoff, SSD

Dennis Bellet, DSA (morning only)

Margie Brown, CASBO (alternate for John Palmer)

Gary Gibbs, CBIA

Blake Johnson, DOF

Debra Pearson, SSSA (morning only)

**Members Absent**

None

The meeting was called to order at 9:33 a.m.; there were 15 members present and there were no absentees. The minutes from the November 5, 2004 meeting were approved as written.

**WILLIAMS SETTLEMENT LEGISLATION****SENATE BILL (SB) 6****General**

The topic was introduced by Bruce Hancock and Lori Morgan and presented by OPSC staff members Lindsay Ross and Masha Lutsuk. Staff expressed that the presentation would concentrate on the items that had been changed and revised as a result of discussion at the November 5<sup>th</sup> Implementation Committee meeting as well as public comments received by the OPSC. The OPSC stated that since the number of eligible schools on the list published by the California Department of Education had not been finalized at this time, Regulation Section 1859.311 and 1859.321 would remain under review and required further consideration. There was also some discussion on subsection (b) of Section 1859.311 in which concerns were expressed that "newly constructed" plus the 12 months to the date of Division of State Architect (DSA) approval will be problematic for facilities not approved by DSA or large gaps between the date of DSA approval and construction. Staff agreed to further review this section.

### School Facilities Needs Assessment Grant Program Regulations

In response to requests for a more streamlined process for reporting the progress made on the Needs Assessment, the OPSC presented the proposed text for the Web-Based Progress Report Survey, which is now a web-based document as described in Section 1859.315. There was extensive discussion on the qualifications of the inspector (Section 1859.314). Some audience members urged the OPSC to require that the inspector be a licensed architect, engineer, general contractor or DSA-certified. A representative of DSA noted that DSA-certified inspectors are not necessary qualified to complete all elements of the assessment. Other audience members expressed the desire for flexibility in the language and the need for independence. The OPSC agreed to continue to review this section. Sections 1859.317 and 1859.318 were modified to provide more clarity to the “supplement, not supplant” requirements of the statute. The audience expressed concerns and presented various ideas for modifying this section to simplify the process and maintain the intent of the statute, which the OPSC will consider.

### School Facilities Needs Assessment Grant Program (Form SAB 61-01)

The OPSC presented the changes made on the instructions of the Form SAB 61-01 that defined the date of construction and building square footage. Additional space was provided on the Form SAB 60-01 to account for multiple inspectors participating in the assessment. Discussions continued regarding the feasibility of districts interfacing their existing facility inspection systems with the OPSC needs assessment database. Audience members suggested adding the definition of portable buildings as well as identification for buildings modernized with State funds.

### Emergency Repair Program (ERP)

The OPSC presented revised language concerning the use of force account labor specified in Section 1859.323.1(f) and the language in 1859.324(a) regarding contracts, which was a result of discussion at the last meeting. The OPSC clarified the language in Section 1859.323, but there continued to be extensive discussion regarding the replacement versus repair of building systems or structural components, especially when the work is in a portable building. The OPSC clarified that this program is to repair or replace building components that have failed and that an ERP project must be for the mitigation of conditions that in their present state pose a health or safety hazard rather than a potential threat to pupils and staff while at school. However, the OPSC agreed to further review this section. There also continued to be extensive discussion regarding supplement, not supplant requirement in Sections 1859.325 and 1859.327, which the OPSC also agreed to further review and take the audience’s comments under consideration.

### **SENATE BILL (SB) 550**

Staff’s presentation focused on the revisions made to the Interim Evaluation Instrument (IEI) since the November 5, 2004 Implementation Committee meeting.

After the discussion, a suggestion was made to add a sentence to the General Information section of the document stating the form is intended for school district’s use as well as county offices of education in determining good repair. Staff agreed to make this revision.

Finally it was suggested that the IEI be presented as the first topic at the January Implementation Committee meeting. Staff agreed to the request.

### **ADJOURNMENT AND NEXT MEETING**

The meeting adjourned at 3:30 p.m. The next Implementation Committee meeting is scheduled for Thursday, January 6, 2005 at 9:30 a.m. and will be held at the Legislative Office Building, 1020 N. Street Room 100, Sacramento.