

STATE ALLOCATION BOARD
 IMPLEMENTATION COMMITTEE
 July 16, 2009

60 PERCENT COMMENSURATE AND 150 PERCENT REGULATIONS

CHANGES FROM THE JUNE 5, 2009 IMPLEMENTATION COMMITTEE ITEM

This item was presented at the June 5, 2009 Implementation Committee Meeting. In response to the discussion that ensued, the item now contains the following revisions:

- A table has been added summarizing the policy issues raised at the **May 1** and **June 5, 2009** Implementation Committee Meetings.
- Each policy question included in the discussion section now includes the Office of Public School Construction (OPSC) Staff's analysis **and** questions and/or concerns that were raised by Committee and/or audience members.
- The item includes a third option for revising School Facility Program (SFP) Regulation Section 1859.51(i)(7) based on input from audience members at the June 5, 2009 Implementation Committee meeting.
- Additional explanation has been added into the OPSC Staff's analysis for the first two options for revising the SFP Regulation Section 1859.51(i)(7).

Summary of Policy Issues Discussed at the May 1 and June 5, 2009 Implementation Committee Meetings	
May 1, 2009	<p><u>150 Percent Regulation</u></p> <ul style="list-style-type: none"> • Should the adjustment be made at the same time as the project approval or during the time of audit for the project? • The current regulation has different interpretations and may be misaligned with EC Section 17071.75(b). • Does the EC provide authority for school districts to preserve eligibility in the baseline for other purposes, such as Minimum Essential Facilities? <p><u>60 Percent Commensurate Requirement</u></p> <ul style="list-style-type: none"> • Concerns were raised that the 60 Percent Commensurate Requirement prevents districts from retaining savings that could later be used to construct non-classroom facilities. • Concerns were raised about the interaction and whether there is a potential conflict between the 60 Percent requirement and the 150 Percent rule.
June 5, 2009	<p>In addition to the above, the following issues were raised:</p> <p><u>150 Percent Regulation</u></p> <ul style="list-style-type: none"> • Concerns were raised that the OPSC did not inform districts of the procedural change related to the 150 Percent Regulation that occurred in 2007, which was to take the 150 Percent adjustment during the project apportionment instead of during the project audit. • Some audience members suggested that SFP Regulation Section 1859.51(i)(7) should be interpreted in such a way that adjustments pursuant to section (i) apply only to locally-funded projects. It was further suggested that adjustments pursuant to the 150 Percent rule only apply to SFP projects when a district spends more than its matching share.

PURPOSE

At the **May 1** and **June 5, 2009** Implementation Committee meetings, the Committee requested a continued discussion of the 150 Percent Regulation and the 60 Percent Commensurate Requirement [SFP Regulation Section 1859.51(i)(7) and Part 22 of the *Application for Funding* (Form SAB 50-04)].

BACKGROUND

Overview of Staff's Presentation at the May 1, 2009 Implementation Committee Meeting

At the **May 1, 2009** Implementation Committee meeting, OPSC Staff presented a brief overview of new construction eligibility and two major legislative bills [Senate Bill (SB) 50 – Greene (Chapter 407, Statutes of 1998) and Assembly Bill (AB) 695 – Mazzoni (Chapter 858, Statutes of 1999)] and the corresponding regulatory amendments that established how the new construction eligibility was calculated and maintained. Staff explained how AB 695 amended the EC Section 17071.75(b) to require an ongoing accounting of facilities provided from any State or local funding source, based on the pupil loading formula set forth in EC Section 17071.25.

Staff explained how the 150 Percent Regulation, which was approved by the State Allocation Board (SAB), was included as a part of the overall regulation package to implement AB 695. The 150 Percent Regulation allows certain classrooms constructed in a SFP project to be excluded from being counted in a school district's ongoing inventory. Using two examples, Staff clarified how the 150 Percent Regulation is currently being applied.

After discussing the 150 Percent Regulation, Staff opened a discussion of the 60 Percent Commensurate Requirement, which was created to uphold the statutory requirement of EC Section 17072.30(a), which stipulates that districts must match State funds "in an amount at least equal to the proposed apportionment." A district's Architect of Record is required to demonstrate that the proposed hard construction costs in a new construction project are at least 60 percent of the combined State and local funding for the project.

DISCUSSION

Discussion of Policy Issues Related to the 150 Percent Regulation and the 60 Percent Commensurate Requirement

Staff noted the following issues raised at the **May 1** and **June 5, 2009 Implementation Committee meetings** that the Committee may wish to continue discussing:

Question 1: Should the adjustments for added classroom capacity beyond 150 percent of the pupil grants requested be made at the time of project funding or during the audit of the project?

OPSC Analysis: The adjustment for added classroom capacity beyond 150 percent of the pupil grants requested should be made at the time of project apportionment.

- Ensures that districts are aware of their new construction eligibility so that projects can be planned accordingly.

- Avoids leaving “phantom” eligibility in school districts’ baselines that would show a need to build additional classroom capacity that does not exist.
- SFP projects can take up to seven years to be completed.
- AB 695 requires an accurate accounting of school districts’ facilities needs (based on the State classroom loading standards). EC Section 17071.75(b) requires that the new construction baseline eligibility be reduced by the number of pupils housed in any State or locally funded project. Because of the seven years it can take to complete an SFP project, this adjustment was taken up front so school districts are aware of their current eligibility.

Concerns/Questions from Committee/Audience Members:

- One concern was that the OPSC did not properly inform school districts of the procedural change that began in 2007, when the OPSC began the practice of adjusting a school district’s eligibility at the time of apportionment instead of at the time of audit. Staff acknowledged that there are mechanisms in place for communicating to school districts, and that the change could have been communicated more effectively.
- Committee and audience members were concerned that the existing regulation approved by the OAL was being misinterpreted and that the adjustment should be taken at the time of audit. This was because of the language within the Regulation “where the district has funded a portion of its project beyond the required district contribution”. Concerns were raised that the amount of local funding contributed must be determined before the 150 percent adjustment can be taken. Staff stated that the SAB confirmed the current practice of taking adjustments at the time of project apportionment at the October 2008 SAB meeting. The provisions of EC Section 17071.75(b) require an accurate accounting of the district’s school building capacity and the State’s corresponding liability to provide funding to build facilities based on the pupil loading formula set forth in EC Section 17071.25.

Next Steps/Actions to Be Taken

Continue discussion with the Implementation Committee to determine whether the 150 percent regulation may be rewritten to provide clarification. See Question 2.

Question 2: Should the existing regulation, which is difficult to interpret, be rewritten to be aligned with EC Section 17071.75(b)?

OPSC Analysis: SFP Regulation Section 1859.51(i)(7) is misaligned with EC Section 17071.75(b) and the SAB may consider approving a revision to the Regulation to reconcile it with the provisions of this Section of EC. As an alternative, the SAB may consider approving a revision to clarify the Regulation.

Concerns/Questions from Committee/Audience Members:

Several audience members opined that the EC Section 17071.75(b) and SFP Regulation Section 1859.51(i)(7) should be interpreted in such a way that adjustments pursuant to section (i) apply only to locally-funded projects. It was further suggested that adjustments pursuant to the 150 Percent rule only apply to SFP projects when a district spends more than its matching share. Option 3 has been added to address these concerns.

Next Steps/Actions to Be Taken

Discuss the options presented and seek input from the Implementation Committee.

*Question 2: **Option 1:** Align with the EC. Offset Based on Project Capacity.*

- Revise SFP Regulation Section 1859.51(i)(7) to be aligned with the provisions of EC Section 17071.75. The baseline would accurately reflect the district's housing needs and the State's liability to provide 50 percent of the necessary new construction funding to house a school district's pupils.
- The following are considerations under Option 1:
 - This option is the most straightforward interpretation of statute.
 - Ensures that a school district's baseline eligibility accurately reflects the pupil housing needs of a district according to the State loading standards.
 - Easy to implement and track the number of facilities constructed in a SFP new construction project.
 - All pupils housed in a SFP project would count towards an adjustment to the SFP new construction eligibility.

Regulation changes needed for Question 2: **Option 1:**

Section 1859.51. Adjustments to the New Construction Baseline Eligibility.

The baseline eligibility for new construction determined on the Form SAB 50-03 will be adjusted as follows:

- (a) Reduced ~~by the number of pupils provided grants in a new construction SFP project and by the number of pupils that received a Preliminary Apportionment pursuant to Section 1859.140 or a Preliminary Charter School Apportionment pursuant to Section 1859.162.2.~~ in accordance with Education Code Section 17071.75(b).
- ...
- (i) Reduced by the number of pupils housed, based on loading standards pursuant to Education Code Section 17071.25(a)(2)(A), in any Classroom Provided after the baseline eligibility was determined by the Board with the exception of those pupils housed or to be housed in a classroom:
 - ...
 - ~~(7) — That is included in a SFP project where the district has funded a portion of the project beyond its required district contribution and the pupil capacity of the classroom does not exceed 150 percent of the number of pupils receiving a new construction grant (rounded up) for the SFP project.~~
 - ...
 - (s) Reduced by the number of pupils that received a Preliminary Apportionment pursuant to Section 1859.140 or a Preliminary Charter School Apportionment pursuant to Section 1859.162.2.

*Question 2: **Option 2:** 150 Percent Up-Front Adjustment.*

- Revise SFP Regulation Section 1859.51(i)(7) to clarify the Regulation and to align it with what was approved by the SAB in January 2000. After the SAB initially approved the 150 percent regulation, the language was revised during the public comment period and the revised language was approved by the OAL. The resulting language created confusion as to the interpretation of the regulation. At the October 2008 SAB meeting,

the OPSC provided the SAB with Staff's existing interpretation of the 150 percent regulation as approved by the OAL, and the SAB confirmed Staff's interpretation.

- The following are considerations under Option 2:
 - This option is aligned with what was approved by the SAB in January 2000 and upheld in an appeal in October 2008.
 - Increases the State liability. The new construction baseline eligibility may inaccurately reflect unhoused pupils for pupils that are already housed.
 - Easy to implement and track the number of facilities included in a SFP project.
 - For SFP apportioned projects, the new construction baseline is only reduced by eligibility requested, unless the capacity of the project is greater than 150 percent (rounded up) of the pupil grants requested. If the pupil grants requested exceed 150 percent of the project capacity, then an additional adjustment is made for the additional capacity added, regardless of the local contribution.

Regulation changes needed for Question 2: **Option 2:**

Section 1859.51. Adjustments to the New Construction Baseline Eligibility.

The baseline eligibility for new construction determined on the Form SAB 50-03, will be adjusted as follows:

- (a) Reduced by the number of pupils provided grants in a new construction SFP project and by the number of pupils that received a Preliminary Apportionment pursuant to Section 1859.140 or a Preliminary Charter School Apportionment pursuant to Section 1859.162.2.
- ...
- (i) Reduced by the number of pupils housed, based on loading standards pursuant to Education Code Section 17071.25(a)(2)(A), in any Classroom Provided after the baseline eligibility was determined by the Board with the exception of those pupils housed or to be housed in a classroom:
- ...
- (7) That is included in a SFP project ~~where the district has funded a portion of the project beyond its required district contribution~~ and the pupil capacity of the classroom does not exceed 150 percent of the number of pupils receiving a new construction grant (rounded up) for the SFP project.

Question 2: Option 3: No Adjustment for 50/50 Projects. 150 Percent Adjustment at Project Audit for Projects with Additional Local Contribution.

- Revise SFP Regulation Section 1859.51(i)(7) based on input from the June 5, 2009 Implementation Committee meeting. After the SAB initially approved the 150 percent regulation, the language was revised during the public comment period. The resulting language that was approved by the OAL caused confusion as to how the Regulation should be interpreted. Members from the audience at the June 5, 2009 meeting provided their interpretation of the Regulation as approved by the Office of Administrative Law (OAL) and the intent of the language that was added after the public comment. Under this option, the new construction eligibility is only reduced by the number of pupil grants requested, and districts may construct an unlimited number of classrooms provided they do not spend a dollar more than the State plus the district matching share. If the costs of the project exceed the State grant plus the district's required matching share, an additional adjustment is made for the additional capacity added above 150 percent of the project capacity.

- The following are considerations under Option 3:
 - This option is misaligned with the Statute.
 - Increases the State liability. The new construction baseline eligibility inaccurately reflects unhoused pupils for pupils that are already housed.
 - Difficult to implement because it requires the adjustment to be made after all the expenditures for the project are made.
 - Leaves “phantom” eligibility in school districts’ baselines that would show a need to build additional classroom capacity that could be reduced at the time of audit.
 - This option can only be implemented with corresponding changes to the *Expenditure Report* (Form SAB 50-06). Currently, the Form does not contain adequate information in order for the OPSC to determine if a school district has spent beyond the State plus the district matching share.

Question 3: Does EC Section 17071.75 provide authority for school districts to preserve eligibility in the baseline for other purposes, such as Minimum Essential Facilities (MEFs)?

OPSC Analysis: The EC section requires an ongoing accounting of the number of pupils for whom facilities were provided from any State or local funding source according to the State loading standards for classrooms. K-6 classrooms are loaded at 25 pupils, 7-12 classrooms are loaded at 27 pupils, and Special Day Class non-severe and severe classrooms are loaded at 13 and 9 pupils, respectively. The baseline eligibility must be reduced based on the number of pupils housed.

- Districts may incorporate MEFs in their new construction projects. However, there is no provision in the Statute for districts to preserve eligibility.
- The existing 150 percent regulation allows districts to preserve eligibility for up to 150 percent of the capacity of an SFP project. In fact, because of how this calculation is rounded, districts can sometimes preserve up to 200 percent of the project capacity. Regulation Section 1859.77.3 allows districts with inadequate MEFs to request a “Use of Grants” to divert their available pupil grants towards constructing an adequate MEF.

Concerns/Questions from Committee/Audience Members:

Committee and audience members stated that the SFP grants are intended to fund MEFs in addition to classrooms, and that a district should be able to complete a small project that adds classrooms and preserve the eligibility not needed to request funding for a MEF at a later time.

Next Steps/Actions to Be Taken

Continue discussion with the Implementation Committee to determine how districts may utilize their eligibility to construct MEFs.

Question 4: Does the 150 percent regulation penalize school districts that only have a local match to build portable classrooms (generally small, slow-growth districts), where the 60 percent commensurate requirement forces them to lower the grants requested?

OPSC Analysis: The 150 percent regulation provides flexibility to school districts so that they may request fewer pupil grants than the actual capacity of an SFP project. Under this regulation, they may preserve eligibility for up to 150 percent of the project's capacity (rounded up).

- This concern stems from the fact that districts don't have enough eligibility to have a large enough project to enhance their facilities (adding MEFs, etc.).
- EC Section 17071.75 does not provide flexibility for preserving eligibility. It requires that the baseline eligibility be reduced directly based on the number of classrooms constructed in a SFP project.
- The SAB approved the 150 percent regulation to grant some districts flexibility when planning an SFP project. Eligibility in the baseline is preserved, and districts may request a "Use of Grants" to construct a MEF if there is an inadequate facility.

Concerns/Questions from Committee/Audience Members:

Committee and audience members said that many small districts either do not have a local match, or have only a small pool of eligibility from which to draw, and therefore cannot complete large enough construction projects to build MEFs. In cases where the capacity of the project exceeds 150 percent of the grants requested, the new construction eligibility for these districts would be deducted.

Next Steps/Actions to Be Taken

Continue discussion of the 150 percent regulation and the 60 percent commensurate requirement.

Examples that illustrate the relationship between the 60 percent commensurate requirement and the 150 percent rule.

Committee members requested to continue discussion of potential conflicts between the 150 percent regulation and the 60 percent commensurate requirement.

Staff is providing the following two examples of real projects where the 150 Percent Rule was applied:

Question 4: Example 1:

In this example, the District lowered its pupil grant request in order for the project to meet the 60 Percent Commensurate requirement. A resulting 150 percent adjustment was necessary because the actual number of students housed was 135.

Information taken from the original *Application for Funding* (Form SAB 50-04) submittal:

Scope of Project	Add five relocatable single-room classroom buildings to an existing high school site.
Pupil Capacity of Project	135 high school students
Estimated Cost of Project	\$594,393
Pupil Grants Requested/Corresponding State Plus District Match	42 grants/ \$1,040,220
60 Percent Commensurate	\$594,393 < (60%) (\$1,040,220) Fail

A 15-day letter was mailed to the District, presenting options for proceeding with the application:

- Option 1: Lower the pupil grants requested to 39 pupils so that the project is 60 Percent Commensurate.
- Option 2: Lower the supplemental and Excessive Cost Hardship Grants requested.
- Option 3: Add to the scope of the project. The District could possibly add additional core facilities that are needed or redesign the project to build permanent classrooms. (The District would need to withdraw the application and resubmit once the new plans are approved by the Division of the State Architect.)

In addition, the 15-day letter addressed that the classroom capacity of the project exceeded 150 percent of the pupil grants requested (rounded up) and therefore an adjustment was required.

The District submitted a revised *Application for Funding* (Form SAB 50-04) lowering the pupil grants requested. Here is the information taken from the revised *Application for Funding* (Form SAB 50-04) submittal:

Scope of Project	Add five relocatable single-room classroom buildings to an existing high school site.
Pupil Capacity of Project	135 high school students
Estimated Cost of Project	\$594,393
Pupil Grants Requested/Corresponding State Plus District Match	39 grants/ \$988,234
60 Percent Commensurate	\$594,393 > (60%) (\$988,234) Pass

The project now passed the 60 Percent Commensurate test. However, the pupil capacity of the project (135) was greater than 150 percent of the pupil grants requested (39). Therefore, the following adjustment was made by the SAB for the added capacity beyond 150 percent of the pupils requested:

39 pupil grants requested x 150 percent = 58.5
58.5 divided by 27 = 2.17 classrooms. This number is rounded up to 3 classrooms, which is the maximum the District could build without accounting for the additional capacity.
5 minus 3 = 2 classrooms of additional capacity.
2 multiplied by 27 = 54 pupil grants
The District's eligibility is reduced by the 39 pupil grants claimed, plus an additional 54 pupil grants for a total of 93 pupil grants.

Because the actual capacity of the project is 135 students, the 150 Percent Rule allowed the District to "preserve" 42 pupil grants in its baseline eligibility, including the additional three pupil grants the district preserved by lowering its request from 42 to 39 pupil grants.

Alternatively, the district could have declined all or some of the supplemental and Excessive Cost Hardship grants requested to meet the 60 Percent Commensurate and to preserve a greater amount of eligibility. Had the District requested 55 pupil grants rather than 39, the district would only have lost 82 pupil grants based on the 150 percent calculation.

55 pupil grants requested x 150 percent = 82.5
82.5 divided by 27 = 3.06 classrooms. This number is rounded up to 4 classrooms, which is the maximum the District could build without accounting for the additional capacity.
4 minus 3 = 1 classroom of additional capacity.
1 multiplied by 27 = 27 pupil grants
The District's eligibility is reduced by the 55 pupil grants claimed, plus an additional 27 pupil grants for a total of 82 pupil grants.

Question 4: Example 2:

This example shows a district with four projects that required a 150 percent adjustment.

- The table illustrates the magnitude of the savings generated if the 60 Percent Commensurate Requirement was not in place. If not for this regulation, low cost projects would violate EC Section 17072.30(a) and the district's matching share requirement would not be met. Further, there would be a strong economic incentive for districts to opt to use portable classrooms to generate savings to apply to other projects.
- The District provided additional capacity greater than 150 percent of the pupil grants requested. The chart also illustrates the 150 percent adjustment that was made to the District's new construction baseline eligibility.

	With 60 % Commensurate Regulation				Without 60 % Commensurate Regulation*		
Class-rooms in Project	Pupils Requested	State Plus District Matching Share	Capacity Overbuilt	Pupil Grants Charged for 150 Percent Adjustment	Pupils Requested (Based on Pupils Housed)	State Plus District Matching Share	Savings
4	29	\$793,456	345%	50	100	\$2,096,078	\$1,302,622
3	32	\$770,574	234%	25	75	\$1,558,848	\$788,275
8	65	\$1,398,170	308%	100	200	\$3,683,520	\$2,285,350
4	48	\$1,091,650	208%	25	100	\$2,048,772	\$957,122
Totals:							\$5,333,368

*This scenario cannot actually happen. It illustrates the amount of savings that could be generated by school districts if the 60 Percent Commensurate Requirement was not in place.

Note that the District could have avoided conflict with the 150 Percent rule by reducing the Excessive Cost Hardship and other supplemental grants taken and increasing the pupil grant request. For example, in the last project on the chart, the District could have taken 51 pupil grants instead of 48. By requesting 51 grants, the District could have built 196 percent of actual capacity over claimed capacity with the pupil grants requested, with no further adjustment to its eligibility. This is accomplished because of the way the 150 Percent Regulation says to always round up.

AUTHORITY

Chapter 407, Statutes of 1998 (SB 50 – Greene) enacted the Leroy F. Greene School Facilities Act. EC Section 17071.75 established how new construction eligibility is generated and maintained.

Chapter 858, Statutes of 1999 (AB 695 – Mazzoni) amended EC Section 17071.75 to require that all classrooms “provided from any State and Local funding source after the existing school building capacity is determined” be added to a district’s capacity. The bill required reductions to be made from a district’s eligibility for any classrooms that were State funded or locally funded after the baseline was established.

The SAB has the authority to establish regulations in its administration of the SFP under the rulemaking provisions of the California Administrative Procedure Act in accordance with State and federal constitutional requirements of due process and equal protection- requiring fairness and rationality. Such regulations must be consistent with, and comply with, statutes granting that authority.

SFP Regulation Section 1859.51 authorizes adjustments to the new construction baseline eligibility.

The *Application for Funding* (Form SAB 50-04), which is a part of the SFP Regulations, requires the project’s architect to certify that the estimated hard construction cost of the work in the plans and specifications “is at least 60 percent of the total grant amount provided by the State and the district’s matching share, less site acquisition costs. This cost estimate does not include site acquisition, planning, tests, inspection, or furniture and equipment...”

EC Section 17070.63 stipulates that the total funding provided shall constitute the state’s full and final contribution to the project and for eligibility for state facilities funding represented by the number of unhoused pupils for which the school district is receiving that state grant. As a condition of receipt of funds, a school district shall certify that the grant amount, combined with local funds, shall be sufficient to complete the school construction project for which the grant is intended. Any savings achieved by the district’s efficient and prudent expenditure of these funds shall be retained by the district in the county fund for expenditure by the district for other high priority capital outlay purposes.

EC Section 17072.30(a) states that subject to the availability of funds, and to the determination of priority pursuant to Section 17072.25, if applicable, the board shall apportion funds to an eligible school district only upon the approval of the project by the Department of General Services pursuant to the Field Act, as defined in Section 17281, and certification by the school district that the required 50 percent matching funds from local sources have been expended by the district for the project, or have been deposited in the county fund, or will be expended by the district by the time the project is completed, in an amount at least equal to the proposed apportionment pursuant to this chapter, prior to release of the state funds.

EC Section 17072.20(a) stipulates that an applicant school district that has been determined by the board to meet the eligibility requirements for new construction funding set forth in Article 2 (commencing with Section 17071.10) or Article 3 (commencing with Section 17071.75) may submit at any time a request to the board for a project apportionment for all or a portion of the funding for which the school district is eligible.

Attachment

The chart below shows a side by side comparison of the EC and the resulting amended SFP Regulations.

	SENATE BILL 50	ASSEMBLY BILL 695
Education Code (EC) Section 17071.75	(b) Add the number of pupils that may be adequately housed in the existing school building capacity of the applicant district as determined pursuant to Article 2 (commencing with Section 17071.10) to the number of pupils for which facilities were provided pursuant to this chapter after the existing school building capacity was determined pursuant to Article 2 (commencing with Section 17071.10).	b) Add the number of pupils that may be adequately housed in the existing school building capacity of the applicant district as determined pursuant to Article 2 (commencing with Section 17071.10) to the number of pupils for which facilities were provided from any state or local funding source after the existing school building capacity was determined pursuant to Article 2 (commencing with Section 17071.10). For this purpose, the total number of pupils for which facilities were provided shall be determined using the pupil loading formula set forth in EC Section 17071.25.
SFP Regulation Section 1859.51	<p>The baseline eligibility for new construction... will be adjusted as follows:</p> <p>a) Reduced by the number of pupils provided in a new construction SFP project.</p> <p>(b) Reduced by the number of pupils housed, based on the loading standards pursuant to EC Section 17071.25(a)(2), in a new construction LPP project funded under the provisions of the LPP pursuant to Sections 1859.12 or 1859.13.</p> <p>(c) Reduced by the number of pupils housed in additional classrooms constructed or purchased based on the loading standards, pursuant to EC Section 17071.25(a)(2), in a modernization SFP project.</p>	<p>The baseline eligibility for new construction... will be adjusted as follows:</p> <p>(a) Reduced by the number of pupils provided grants in a new construction SFP project and by the number of pupils that received a Preliminary Apportionment pursuant to Section 1859.140 or a Preliminary Charter School Apportionment pursuant to Section 1859.162.2.</p> <p>(b) Reduced by the number of pupils housed, based on the loading standards pursuant to Education Code Section 17071.25(a)(2)(A), in a new construction LPP project funded under the provisions of the LPP pursuant to Sections 1859.12 or 1859.13.</p> <p>(i) Reduced by the number of pupils housed, based on loading standards pursuant to Education Code Section 17071.25(a)(2)(A), in any classroom provided after the baseline eligibility was determined by the Board with the exception of those pupils housed or to be housed in a classroom.</p> <p>(7) That is included in a SFP project where the district has funded a portion of the project beyond its required district contribution and the pupil capacity of the classroom does not exceed 150 percent of the number of pupils receiving new construction grants (rounded up) for the SFP project.</p>