



## Department of General Services and California Department of Education Memorandum of Understanding

### Participants

This Memorandum of Understanding (MOU) sets forth the agreement between the Department of General Services (DGS) and its component Office of Public School Construction (OPSC) and the Division of the State Architect (DSA) and the California Department of Education (CDE) in the review of projects in the Leroy F. Green School Facility Program (SFP) (Chapter 12.5 of the Education Code commencing with Section 17070.10) (SFP Act).

### Term

The terms of this MOU shall start upon execution by all parties through June 30, 2011, unless terminated by either party for its convenience upon 30 days advance written notice. The Parties may renew this MOU annually thereafter until the short-term and intermediate-term work described in this MOU is completed; however, prior to each annual expiration, the parties will seek input from representatives of the State Allocation Board (SAB), SAB Implementation Committee and the Expert Working Group on potential revisions to the scope of work for the next annual period. Upon completion of the work in this MOU, the parties may address any outstanding issues through a permanent MOU, pursuing legislative fixes and/or initiating regulatory processes, as the parties may deem appropriate or desirable.

### Background

Construction of California public schools involves a complex, multi-faceted process conducted under several diverse statutes and authorities involving the review and approval of numerous state agencies. In response to stakeholder meetings and legislative hearings, DGS, in partnership with CDE, convened an inclusive Program Review Expert Workgroup (Expert Workgroup) to conduct a construction process review, identify issues and make recommendations to improve California's school design and construction processes. The Program Review Expert Workgroup and subgroups included broad representation of stakeholders and industry experts who worked collaboratively to analyze potential administrative, regulatory and legislative changes.

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The Expert Workgroup's October 1, 2010 report included six recommendations, the fourth of which was to "craft and adopt a Memorandum of Understanding (MOU)/Interagency agreement among the three primary agencies involved in the public school construction process." Some of the intended purposes for the MOU were to "describe the relationship between the DSA, the OPSC and the CDE, who are collectively charged with processing public school construction applications" and to address "the need for enhanced, more efficient communication and responsiveness between each of the involved State agencies, as well as with the agencies' customers and stakeholders."

In particular, the agencies would like to work on a two (2) phase approach to addressing the following specific issues:

- There is a lack of communication/coordination between all parties involved in the K-12 school construction process;
- There appears to be a need for improved customer service in certain K-12 school construction process areas;
- The State interagency collaborative process needs to be improved;
- A single K-12 school construction point of contact should be established;
- There are inconsistencies in the various State agency policy interpretations;
- The duration and timing of State agency reviews is variable and lacks coordination; and
- It is time consuming and cumbersome to make changes and revisions to design documents submitted to DSA for review.

The three primary agencies, DGS/OPSC, DGS/DSA and CDE, enter into this MOU in furtherance of that Expert Workgroup recommendation. Before executing this MOU, the parties have shared a draft with the Expert Workgroup, considered the Expert Workgroup comments and revised the draft as the parties deem appropriate.

**Understandings:**

1. **Description of Relationship:** The relationship between the DSA, the OPSC and the CDE with respect to development of school facilities is determined by their respective statutory roles and responsibilities.
  - a. **OPSC:** The SFP provides school construction and modernization funding assistance to eligible Local Educational Agencies. This funding is approved by the State Allocation Board (SAB). The DGS Director administers the SFP and provides assistance to the SAB. The OPSC serves as staff to the SAB and ensures that funding requests presented to the SAB are in compliance with the laws and regulations governing the SFP. (See Ed. Code §17070.20).

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- b. **CDE:** The CDE must review and approve the site selection and the building plans and specifications for compliance with the standards contained in *California Code of Regulations*, Title 5 Section 14001 before the SAB may apportion funds. (See Ed. Code §17070.50). Such standards ensure that: i) sites are selected in accordance with the objectives of educational merit, safety, reduction of traffic hazards, and conformity to the land use element in the general plan of the city, county or city and county having jurisdiction, and ii) the design and construction of school facilities are educationally appropriate and promote school safety. (See Ed. Code §17251).
- c. **DSA:** The DSA certifies a project's compliance with the rules and regulations adopted pursuant to Ed. Code Title I, Part 10.5, Chapter 3, Article 3 and the building standards published in *California Code of Regulations*, Title 24. (See Ed. Code §17280). The DSA review is for the protection of life and property, including structural sufficiency, fire/life safety and accessibility.

Each agency acknowledges and respects that the other agencies have their own independent statutory and regulatory responsibilities, creating overlaps and redundancies that serve as checks and balances to protect students and the general public. Nothing in or resulting from this MOU shall be interpreted to prevent, restrict or impede each agency from exercising its full statutory and regulatory authority.

2. **Project Meetings:** Representatives from OPSC, DSA and CDE shall meet on a monthly basis to share and discuss information about the status of the projects for the purposes of improving planning and work flow, identifying and resolving as soon as possible potential issues with specific projects and improving communication and collaboration among the agencies. The representatives will agree on the type of information and reports to be shared at the meetings to make them most productive. The meetings are intended to allow the agencies to better work together on issues that directly affect the Local Educational Agencies (LEAs) which are served.
3. **Workshops:** The agencies will jointly co-host quarterly workshops to provide agency updates to all school districts and stakeholders. The dates, locations, speakers, topics and other details will be determined by mutual agreement.
4. **Task Force:** The OPSC, DSA and CDE will establish a collaborative task-force to address the issues delineated in the background section above through the work described in Phases 1 and 2 below. Within one week following execution, each agency will identify the staff who are committed to work on the collaborative task force. The staff assigned to the task force should be knowledgeable experts in their own office and have generally familiarity with the public school construction processes and other agency processes/ programs/functions. In addition, such staff

will be responsible for coordinating with his or her organization's subject matter experts, such as IT or legal, as may be necessary to identify and address particular issues or concerns with the potential solutions considered by the task force. Collaborative task force members may be substituted at the discretion of the agency. Each Phase will result in a final report with recommendations to the management of each agency. Each solution will be implemented only if approved by the management of all of the agencies that are impacted by the proposed solution.

5. **Short-Term – (Phase 1):**

- a. During the first 90 days of this MOU, the collaborative task force will attempt to identify and resolve the legal, budgetary, staffing, scheduling, logistical, technical, resource and other issues raised by the following proposed, short-term solutions:
  - Streamlined state school construction process through the collaborative efforts of OPSC, DSA and CDE;
  - Creation of a one-stop-shop customer orientation within OPSC, DSA and CDE;
  - Requirement of a single interagency PTN;
  - Establishment of a common definition of teaching station and student capacity, and
  - Site acquisition issues.
  
- b. The following specific deliverables will be generated by the interagency task force and provided to OPSC, DSA and CDE management:
  - A Phase 1 Calendar of regularly scheduled meetings shall be developed within two days of formation of the task force. The calendar should also build in regular senior management status update and report meetings;
  - A Phase 1 Work Plan that identifies a process to determine what and how short-term solutions can be addressed and implemented. The work plan will provide specifics for what policy, legal and other issue papers and other deliverables will be made and due dates for the deliverables within 14 days of full execution of the MOU;
  - Monthly Status Reports produced by the end of each month during Phase 1;
  - A Final Phase 1 Report with specific findings about each of the proposed solutions and recommendations on implementation. In addition to agency management, this report will be provided to the SAB

6. Intermediate-Term – (Phase 2):

- a. After the completion of Phase 1, the collaborative task-force will continue to work on any remaining proposed, short-term solutions and, in addition, the following intermediate-term solutions until 36 months following effectiveness of this MOU (Phase 2):
  - o Develop an implementation plan to allow CDE and/or another agency designee to be the overall project lead or “ombudsman”; and
  - o Develop an implementation plan for DSA to permit an exception form at intake for over the counter approvals located at designated DSA offices.
  - o Review the various application processes to identify changes that will reduce redundancies, shorten the overall time in the state approval process and reduce costs for LEAs, without creating an unacceptable staffing, budget or administrative impact to any agency.
  - o Develop proposed regulatory amendments to identify and resolve, if possible, inconsistencies in areas of overlapping authority under the parties’ respective regulatory schemes.
  
- b. The following specific deliverables will be generated by the interagency task force and provided to OPSC, DSA and CDE management as part of Phase 2:
  - o A Phase 2 Calendar of regularly scheduled meetings within one week of commencement of Phase 2. The calendar should also build in regular senior management status updates and report meetings;
  - o A Phase 2 Work Plan that will provide specifics for what policy, legal and other issue papers and other deliverables will be made and due dates for the deliverables within 21 days of commencement of Phase 2;
  - o Monthly status reports at the end of each month during Phase 2;
  - o Quarterly SAB reports;
  - o A Final Phase 2 Report with specific findings and recommendations.

**[Remainder Intentionally Blank]**

**MOU Monitors**

The project representatives during the term of this MOU, unless substitutions are made, will be:

CDE	DGS
Name: Kathleen J. Moore Title: Division Director – School Facilities Planning Division Address: 1430 N Street Suite #1202 Phone (916) 445-2144	Name Stephen Amos Title Chief Deputy Director Address 707 Third Street West Sacramento, CA 95605  Phone: (916) 375-4267

**Agreement and Execution**

**Approvals:**

  
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**Stephen Amos, Chief Deputy Director** Date: December 9, 2010  
Department of General Services

  
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**Kathleen J. Moore, Division Director** Date: December 9, 2010  
California Department of Education