

STATE ALLOCATION BOARD  
IMPLEMENTATION COMMITTEE MEETING  
June 8, 2012

Proposed Regulatory Changes for the Priority Funding Process

PURPOSE OF REPORT

The purpose of this item is to present proposed regulatory changes that would adjust the 30-calendar-day priority funding filing periods and extend the length of time that priority funding requests are valid.

DESCRIPTION

At the February 22, 2012 State Allocation Board (Board) meeting, Office of Public School Construction (OPSC) staff presented a report that provided a general overview of the priority funding process, highlighting the three main steps associated with priority funding: the school district's request, the apportionment, and the fund release.

At the May 11, 2012 Implementation Committee meeting, the committee discussed proposed School Facility Program (SFP) regulation changes and issues the Board raised in February.

AUTHORITY

See Attachment A.

BACKGROUND

Current regulations establish regular priority funding request filing periods: twice yearly 30-calendar-day windows during which districts may request to receive an apportionment. Requests are valid until the next filing round begins. The most recent 30-calendar-day filing period began on January 11, 2012 and ended on February 9. Because the next filing round begins on July 11, the current requests are valid until July 10. Subsequent filing periods will begin on the second Wednesday of January and the second Wednesday of July each year.

STAFF ANALYSIS/STATEMENTS

Increase Opportunities for Apportionments

Current regulations identify districts' certifications as being valid until the next filing period begins. Therefore, the Board was not able to approve apportionments at its

January 2012 meeting because the previous round's requests were no longer valid and the current round's filing period had not ended yet.

In order to increase the opportunities the Board has to approve apportionments, OPSC staff recommends amending SFP regulations to provide that priority funding requests remain valid until beyond the end of the next filing period deadline. As a result, each year, the Board would be able to approve apportionments at as many as four additional meetings.

### New 30-day filing periods

The first filing period of the year begins on the second Wednesday of January and ends in mid-February. The second period begins on the second Wednesday of July and ends in mid-August.

Bond sales typically occur twice a year: between late February and early April and between early August and mid-October. Therefore, adjusting the filing periods would provide the Department of Finance (DOF) with information regarding the need for bond funds that would be more recent than the information the OPSC currently provides. The more recent the information the DOF has, the more likely the DOF will be able to receive an amount of bond funds capable of fulfilling the needs of more districts with priority funding requests.

In order to provide the DOF with the most recent information possible, OPSC staff recommends amending SFP regulations so that:

- one filing period begins in mid-November and ends in mid-December, in order to provide DOF with information at the beginning of January to inform potential February bond sales, and
- the other filing period begins in mid-May and ends in mid-June, in order to provide DOF with information at the beginning of July to inform potential August bond sales.

To transition from the current priority funding process to the proposed process, the priority funding round based on the January-February 2013 filing period would be shorter than it is currently; however, all future funding rounds would be longer than the current regulations allow. See Attachments C and D.

If staff's recommendations are approved by the Board, staff will publicize the transition by emailing districts as critical new dates approach and by including reminders in County Office of Education meeting presentations and Building Blocks articles.

The proposed regulatory language is provided in Attachment B.

## ATTACHMENT A

### Section 1859.90.2. Priority Funding Process.

The priority funding process allows the Board to distribute available funds to districts or charter schools who request an Apportionment or an advance release of funds from a Preliminary Apportionment or Preliminary Charter School Apportionment during specific 30-calendar day filing periods beginning with July 27, 2011 and continuing with the 2nd Wednesday of January and the 2nd Wednesday of July each calendar year. Certifications are valid until the next filing period begins. Requests must be physically received by the OPSC by the 30th calendar day to be considered valid. During any priority funding process a district or charter school must submit the Form SAB 50-05 within a specified time period of the Apportionment or approved advance release of funds request, pursuant to (a)(2) or (b)(2) of this section. Projects receiving an apportionment as part of the priority funding process for which the OPSC does not physically receive an original signature copy of the Form SAB 50-05 within the appropriate time limit shall be rescinded without further Board action.

- (a) In order to be considered for an Apportionment, approved advance release of design funds from a Preliminary Charter School Apportionment, or approved advance release of environmental hardship site acquisition funds from a Preliminary Apportionment, the district or charter school must provide a written statement signed by an authorized representative that includes each of the project application numbers, and the type of apportionment request (e.g., Apportionment, separate apportionment for design or site acquisition), within the 30 calendar day filing period that contains all of the following:
- (1) Request to convert the unfunded approval to an Apportionment or to receive an approved advance release of funds; and
  - (2) Concurrence with a 90 calendar day time limit on fund release; and
  - (3) Acknowledgement that a valid, original signature Form SAB 50-05 must be submitted and physically received by the OPSC within the 90 calendar day time limit and failure to do so will result in the rescission of the Apportionment or approved advance release of funds request without further Board action; and
  - (4) For those receiving an Apportionment, acknowledgement that by participating in the priority funding process, the district or charter school is waiving its right to a standard 18 month timeline for fund release submittal.
- (b) In order to be considered for an approved advance release of site acquisition funds from a Preliminary Charter School Apportionment, the district or charter school must provide a written statement signed by an authorized representative within the 30 calendar day filing period that contains all of the following:
- (1) Request to convert the advance release of funds to an approved advance release of funds request; and,
  - (2) Concurrence with a 180 calendar day time limit on fund release; and
  - (3) Acknowledgement that a valid, original signature Form SAB 50-05 must be submitted and physically received by the OPSC within the 180 calendar day time limit and failure to do so will result in the rescission of the approved advance release of funds request without further Board action; and
  - (4) Acknowledgement that it must provide evidence that it has entered into the Charter School Agreements within 90 calendar days of approval of the advance release of funds request and failure to do so will result in the rescission of the approval without further Board action.

In the event that the amount of requests received during a specific 30-day filing period exceeds the funds available, the Board shall apportion based on the unfunded approval date and the application received date up to the available cash from each bond source. Projects that have requested to participate in the priority funding process for which an Apportionment cannot be provided shall retain their date order position on the Unfunded List. Request letters of projects not converted to apportionments will not be returned to the district or kept by the Office of Public School Construction.

For purposes of this section "rescinded" or "rescission" shall mean that the apportionment or approved advance release of funds request returns to unfunded approval status with a new unfunded approval date. The new unfunded approval date will be 90 calendar days after the apportionment date. The district or charter school will not be required to re-submit the application and no further application review will be required.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.12, 17072.30, 17074.16, 17076.10, 17077.40, 17077.42 and 17077.45, Education Code.

## ATTACHMENT B

### Section 1859.90.2. Priority Funding Process.

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<i>Filing Period</i>	<i>Requests are valid</i>
<u><i>July 27, 2011 – August 25, 2011</i></u>	<u><i>August 26, 2011 – January 10, 2012</i></u>
<u><i>January 11, 2012 – February 9, 2012</i></u>	<u><i>February 10, 2012 – July 10, 2012</i></u>
<u><i>July 11, 2012 – August 9, 2012</i></u>	<u><i>August 10, 2012 – January 8, 2013</i></u>
<u><i>January 9, 2013 – February 7, 2013</i></u>	<u><i>February 8, 2013 – May 7, 2013</i></u>

*Beginning on May 8, 2013, the filing periods will continue with the 2nd Wednesday of May and the 2nd Wednesday of November each calendar year thereafter. Requests submitted during a filing period beginning with the 2nd Wednesday of May are valid from July 1 until December 31 of that year. Requests submitted during a filing period beginning with the 2nd Wednesday in November are valid from January 1 until June 30 of the following year.*

During any priority funding process a district or charter school must submit the Form SAB 50-05 within a specified time period of the Apportionment or approved advance release of funds request, pursuant to (a)(2) or (b)(2) of this section. Projects receiving an apportionment as part of the priority funding process for which the OPSC does not physically receive an original signature copy of the Form SAB 50-05 within the appropriate time limit shall be rescinded without further Board action.

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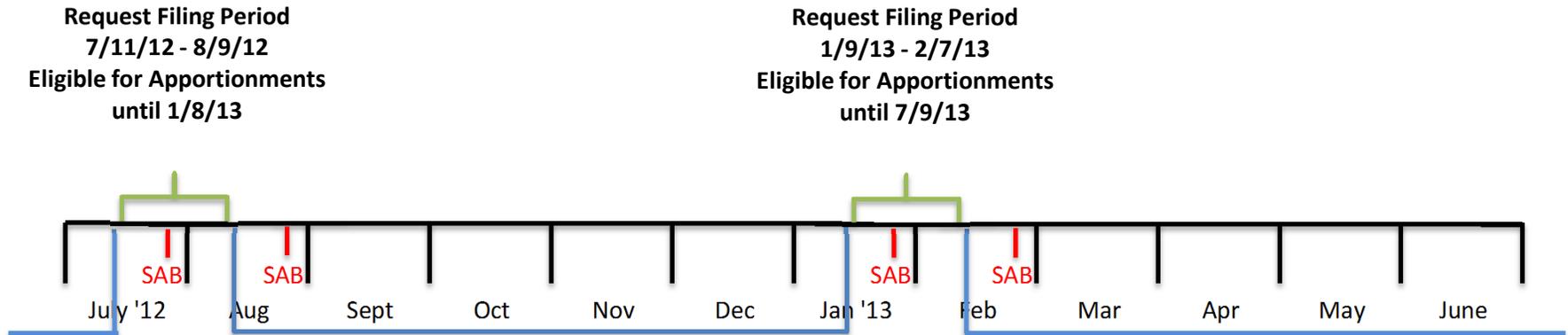
Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.12, 17072.30, 17074.16, 17076.10, 17077.40, 17077.42 and 17077.45, Education Code.

# ATTACHMENT C

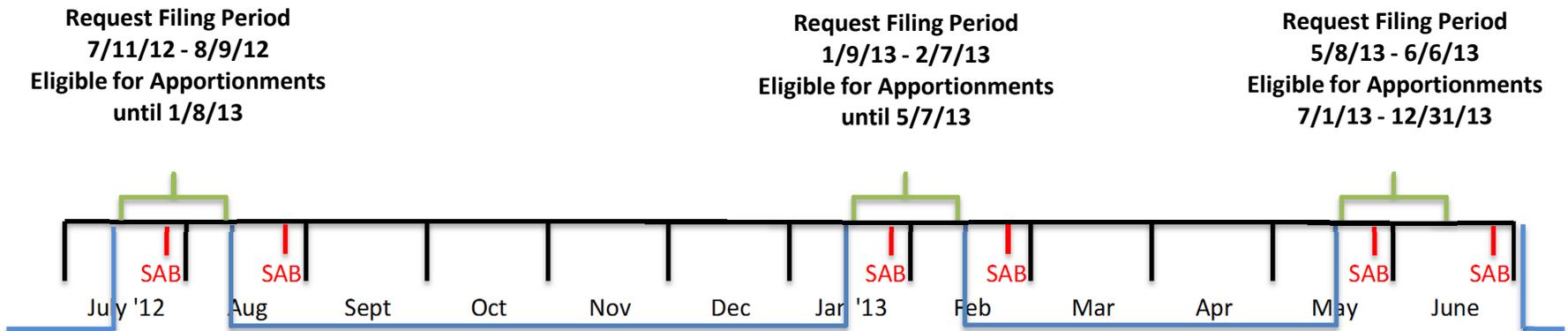
July 2012 - June 2013

## Priority Funding Round Timelines - Current Process



No apportionments in July 2012, August 2012, January 2013, or February 2013.

## Priority Funding Round Timelines - Proposed Process

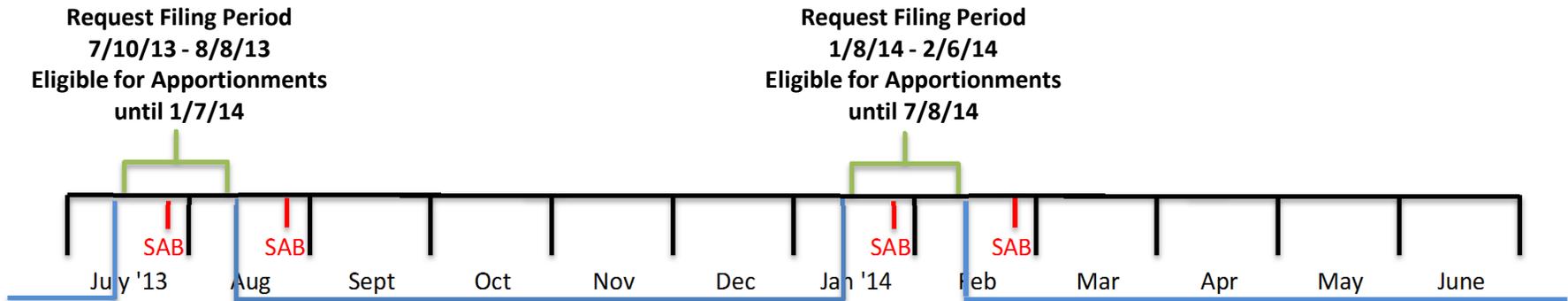


No apportionments in July 2012, August 2012, January 2013, February 2013, May 2013, or June 2013.

# ATTACHMENT D

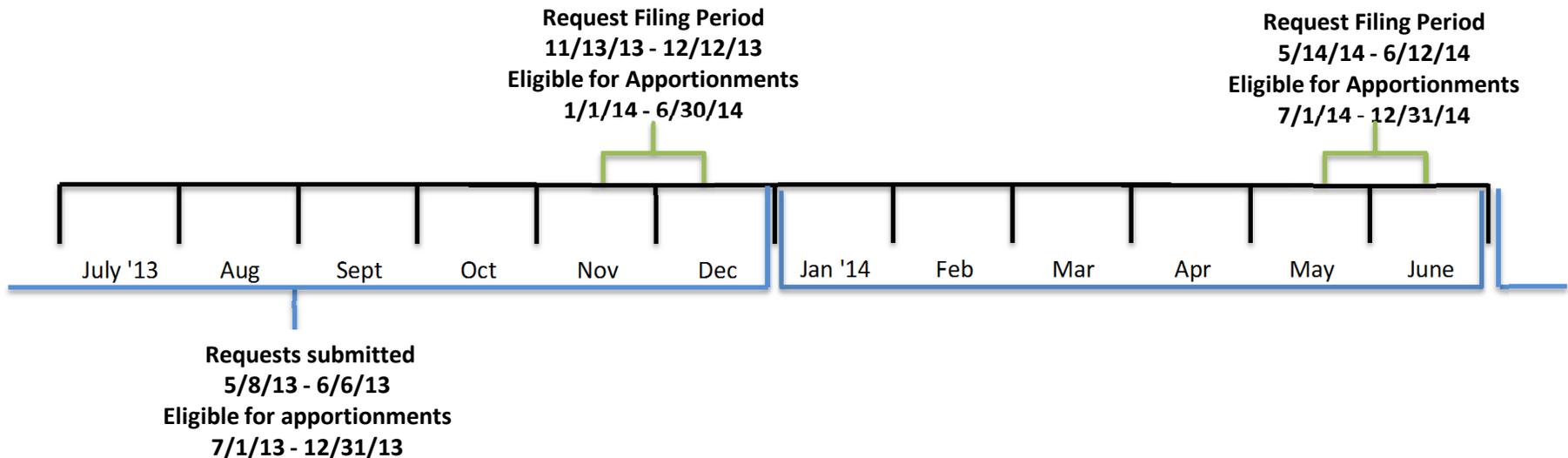
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## Priority Funding Round Timelines - Current Process



No apportionments in July 2013, August 2013, January 2014, or February 2014.

## Priority Funding Round Timelines - Proposed Process



STATE ALLOCATION BOARD  
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Hybrid Minimum Educational Facilities at K-8 School Sites

PURPOSE OF REPORT

The purpose of this report is to discuss the unique challenges faced by kindergarten through 8<sup>th</sup> grade (K-8) school sites related to Minimum Essential Facilities (MEF), pursuant to School Facilities Program (SFP) Regulation Sections 1859.77.3 and 1859.82.

DESCRIPTION

The SFP Regulations permit school districts to request a Use of Grants (UOG) to construct an MEF such as a multi-purpose room (MPR), gymnasium, or library. As written, these regulations provide criteria to determine what types of facilities may be funded for schools serving elementary, middle, or high school students, or if the square footage of an existing MEF is adequate. But they do not address certain scenarios unique to K-8 facilities; for example, a gym and an MPR that are located in the same structure.

AUTHORITY

See Attachment A.

BACKGROUND

Pursuant to SFP Regulation Section 1859.77.3, districts meeting specific requirements can request a UOG for new construction grants to construct an MEF, such as an MPR, gym, or library, at an existing site that does not have an existing MEF, or if the existing MEF is determined to be inadequate.

*Minimum Essential Facility*

The appropriate MEF size is calculated using the chart in SFP Regulation Section 1859.77.3 for Alternative Education projects, and Section 1859.82 for all other projects. MEF facilities include:

- MPR
- Gymnasium (for High Schools and Middle Schools only)
- Library/Media Center
- Counseling and/or Conference Rooms (Alternative Education only)

### *School Board Resolution*

Before a school district submits to the OPSC an application containing a UOG request, the district must adopt a school board resolution containing the following:

- An acknowledgement that funds for the purposes of housing the excess pupils are being diverted to another project.
- An acknowledgement that the State has satisfied its obligation to house the pupils receiving grants in the project, pursuant to SFP Regulation 1859.50.
- A plan outlined in the resolution that identifies how the district has housed or will house the pupils receiving grants in the project in school buildings, as defined in EC Section 17368. The plan must certify one of the following methods:
  - The district will construct or acquire facilities for housing the pupils with funding not otherwise available to the SFP as a district match, within five years of project approval by the SAB, and the district must identify the source of the funds; or
  - The district will utilize higher district loading standards providing the loading standards are within the approved district's teacher contract, and do not exceed 33 students per classroom.

### *Specific Issue*

Last fall, a K-8 one-school district submitted an *Application for Funding* (Form SAB 50-04) requesting a UOG for an MEF that the OPSC was unable to process to the Board based on current SFP regulations.

The district requested a UOG to expand an existing MPR to include full gym functionality for the 7<sup>th</sup>-8<sup>th</sup> grade students. SFP Regulation Section 1859.77.3(a) states that funding for a new MEF is authorized "at an existing site that does not have an existing or adequate facility of the type being requested...." It then specifies the calculations to determine whether or not an existing MEF would be eligible for expansion. The existing MPR met the square footage requirements in the regulations, so the expansion could not be funded. However, the Regulations did authorize funding for a separate gym facility for the 7<sup>th</sup>-8<sup>th</sup> grade students because the school site did not have an existing gym.

The district appealed its case to the Board, which voted to consider the expansion area of the MPR as a separate gym and approved only those costs related to the expanded area. The Board asked for a review of the regulations.

### STAFF ANALYSIS/STATEMENTS

#### *Determining if an MEF Project is Eligible for Funding*

The SFP Regulations authorize funding for a new MEF only if there is no existing MEF, or if an existing MEF is found to be "inadequate." To be classified as inadequate, the

existing square footage must be less than 60 percent of the square footage necessary for the current enrollment of the site plus the capacity of the proposed project. The calculation is as follows:

- a) Site enrollment + project capacity = total eligible pupils
- b) Multiply the total eligible pupils by the per pupil square footage for the type of facility being requested pursuant to Section 1859.82(b) chart (see Attachment B).
- c) Use the greater of either the total determined in b) or the minimum square footage for the type of facility and grade level from Regulation Section 1859.82(b); 5,000 square feet for middle.
- d) Divide the existing square footage by either the greater of b) or the minimum square footage for the grade level.
- e) If d) is less than 60 percent, the project qualifies for a UOG pursuant to SFP Regulation Section 1859.77.3(a)(5).

In the case of K-8 schools, currently the district identifies the type of project as either elementary or middle school on the Form SAB 50-04. This determines which column is used from the Section 1859.82 chart.

(See examples in Attachment C.)

#### *SAB Direction*

The SAB, at its February 22, 2012 meeting, directed OPSC staff to revise the regulations to address unique cases related to K-8 facilities, such as the appeal described previously, and to discuss the issue at the Implementation Committee.

#### DISCUSSION

In the case of the recent appeal, the project included renovation of the existing MPR floor space to be combined with the floor of the addition as one large gym floor. The apportionment related only to the addition and did not relate to the renovation of the existing space. It appears that this issue is unlikely to occur for facilities other than MPR/gym hybrid buildings. A building that contains both gym space and library space, for example, could easily be calculated as separate MEFs because they would serve clearly separate functions, and be separated by a wall. However, the floor space in an MPR may already be used for indoor physical education, so the addition of extra space to create full gym function would typically be considered to be expanding the multipurpose room as opposed to building a gym.

K-6 sites are not eligible for a separate gym, while middle school and high school sites are likely to have a separate gym. This issue would be unlikely to occur at sites other than K-8.

Do the regulations need to be changed to address K-8 facilities, or, for now, should the regulations simply be amended to address the specific school district issue at a hand?

## ATTACHMENT A

### Use of New Construction Grants For Minimum Essential Facilities

#### Section 1859.77.3. Use of New Construction Grant Funds for Projects Accepted by the DSA after January 22, 2003.

New Construction Grant funds and any other funds provided by these Regulations shall be expended as set forth in Education Code Section 17072.35; and may also be utilized for the cost incurred by the district for the development and implementation of remedial action plan approved by the DTSC pursuant to Education Code Section 17213.

Authorization for use of New Construction Grants for which the final plans and specifications for the project were accepted by the DSA after January 22, 2003 may be requested as follows:

- (a) A district may request new construction grants that exceed the capacity of the project based on loading standards pursuant to Education Code Section 17071.25(a)(2) and any loading standards adopted by the SAB by these regulations if the project is to construct a multipurpose, gymnasium and/or library, or for an Alternative Education school to construct a multipurpose/gymnasium, library, counseling offices, and/or conference rooms, at an existing site that does not have an existing or adequate facility of the type being requested when all of the following is met:
  - (1) The district must adopt a school board resolution that has been discussed at a public hearing at a regularly scheduled meeting of the district's governing board on a date preceding the application filing that includes the following:
    - (A) An acknowledgement that funds for the purposes of housing the excess pupils are being diverted to another project.
    - (B) An acknowledgement that the State has satisfied its obligation, pursuant to Section 1859.50, to house the pupils receiving grants in the project.
  - (C) A plan outlined in the resolution that identifies how the district has housed or will house the pupils receiving grants in the project in school buildings as defined in Education Code Section 17368. The plan must certify one of the following methods:
    - 1. The district will construct or acquire facilities for housing the pupils with funding not otherwise available to the SFP as a district match within five years of project approval by the SAB, and the district must identify the source of the funds; or
    - 2. The district will utilize higher district loading standards providing the loading standards are within the approved district's teacher contract and do not exceed 33:1 per classroom.
- (2) The existing school site was not constructed under the SFP.
- (3) The proposed project includes no more than eight classrooms.
- (4) Grants requests, above 100 percent of the number of pupils to be housed, based on Special Day Class pupil eligibility are only permitted under this subsection (a) when building a Special Day Class facility.
- (5) For purposes of this section to determine if an existing facility is inadequate, the existing square footage is less than 60 percent of the square footage necessary for the current CBEDS for the site plus the Net School Building Capacity of the proposed project as **calculated pursuant to Section 1859.82(b)**, except for Alternative Education Schools....

*(Alternative Education chart not included.)*

- (6) The maximum excess pupil amount being requested for this type of use of grants request, is calculated by the following:
  - (A) Multiply the current CBEDS for the site plus the Net School Building Capacity for the proposed project by the square footage for the type of facility being requested, pursuant to Section 1859.82(b), except for Alternative Education Schools. For Alternative Education Schools, refer to the chart above.
  - (B) Multiply the product in (a)(6)(A) above by the per square foot grant amount for multipurpose, gymnasium or library facilities pursuant to Section 1859.82(b); utilize the same per square foot grant amount for the Alternative Education school facilities as shown in Section 1859.82(b).
  - (C) Divide the product in (a)(6)(B) above by the New Construction Grant amount for the project grade level, rounded up to the nearest whole number.

*(1859.77.3(b) and (c) not included.)*

## **ATTACHMENT A**

If a district wishes to amend its Approved Application to include or increase its use of grants request after the submittal to the OPSC, the district must request in writing that the Approved Application be withdrawn and removed from the OPSC workload list. The resubmitted application will receive a new processing date by the OPSC.

The New Construction Grant amount provided shall be determined based on the grant amount provided in Education Code Section 17072.10 for the grade level that generated the eligibility and any New Construction Additional Grant or New Construction Excessive Cost Hardship Grant the district qualifies for as provided by these regulations.

Note: Authority cited: Sections 17070.35 and 17072.13, Education Code.  
Reference: Sections 17072.13 and 17072.35, Education Code.

## ATTACHMENT B

### Chart from Section 1859.82(b) Used to Determine if an Existing MEF is Adequate Under SFP Regulation Section 1859.73

The square footage provided, after accounting for all useable facilities on the site, shall not exceed the following:

<i>Facility</i>	<i>Elementary School Pupils</i>	<i>Middle School Pupils</i>	<i>High School Pupils</i>
Multi-Purpose (includes food service)	5.3 sq. ft. per pupil minimum 4,000 sq. ft.	5.3 sq. ft. per pupil minimum 5,000 sq. ft.	6.3 sq. ft. per pupil minimum 8,200 sq. ft.
Toilet	3 sq. ft. per pupil minimum 300 sq. ft.	4 sq. ft. per pupil minimum 300 sq. ft.	5 sq. ft. per pupil minimum 300 sq. ft.
Gymnasium (includes shower/locker)	N/A	12.9 sq. ft. per pupil minimum 6,828 sq. ft. maximum 16,000 sq. ft.	15.3 sq. ft. per pupil minimum 8,380 sq. ft. maximum 18,000 sq. ft.
School Administration	3 sq. ft. per pupil minimum 600 sq. ft.	3 sq. ft. per pupil minimum 600 sq. ft.	4 sq. ft. per pupil minimum 800 sq. ft.
Library/Media Space	2.3 sq. ft. per pupil plus 600 sq. ft.	3.3 sq. ft. per pupil plus 600 sq. ft.	4.3 sq. ft. per pupil plus 600 sq. ft.

## ATTACHMENT C

### How to Determine if an Existing MEF is Adequate – Examples

The following table shows how to calculate the appropriate square footage for an MPR.

Type of Project (per 50-04)	Middle School
Site Enrollment (per CBEDS)	350
Project Capacity (4 CR's x 27 pupils)	+ 108
Total Capacity	458
Square footage per pupil for Middle School MPR (per 1859.82 chart)	x 5.3
Appropriate square footage for MPR	2427.4
Minimum square footage for Middle School MPR	5000

#### **Example 1**

Existing MPR with a square footage above 60% of the appropriate square footage.

Use the greater of the appropriate square footage (2,427.4) or the minimum (5,000)	5000
Square footage of existing MPR	4000
Divide sq. ft. of Existing MPR (4,000) by the greater of the Appropriate sq. ft. or the Minimum sq. ft.	<b>80%</b>

The existing MPR is more than 60% of the minimum square footage as shown in the 1859.82 chart. Therefore, this project **does not qualify** for a UOG under Regulation Section 1859.77.3.

#### **Example 2**

Existing MPR with a square footage below 60% of the appropriate square footage.

Use the greater of the appropriate square footage (2,427.4) or the minimum (5,000)	5000
Square footage of existing MPR	2970
Divide sq. ft. of Existing MPR (4,000) by the greater of the Appropriate sq. ft. or the Minimum sq. ft.	<b>59%</b>

The existing MPR is less than 60% of the minimum square footage as shown in the 1859.82 chart. Therefore, this project **does qualify** for a UOG under Regulation Section 1859.77.3.