

STATE ALLOCATION BOARD

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Date: March 23, 2006

To: Interested Parties

Subject: **NOTICE OF THE STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE MEETING**

Notice is hereby provided that the State Allocation Board Implementation Committee will hold a meeting on Thursday, April 6, 2006 (9:30 am - 3:30 pm) at the State Capitol, Room 444, Sacramento.

The Implementation Committee's proposed agenda is as follows:

1. Continued discussion on Education Code Section 17071.75 regarding adjustments to the existing building capacity for portable classrooms provided after the new construction baseline eligibility is established.
2. Discussion on suggestions and alternatives to increase participation in the utilization of School Facility Program Regulation Section 1859.73.2 which provides an additional grant to replace single-story facilities with multi-story facilities.

Any interested person may present public testimony or comments at this meeting regarding the issues scheduled for discussion. Any public input regarding unscheduled issues should be presented in writing, which may then be scheduled for a future meeting. For additional information, please contact Ms. Deah Johnson at (916) 445-3159.

A handwritten signature in cursive script that reads "Mavonne Garrity".

MAVONNE GARRITY, Chairperson
State Allocation Board Implementation Committee

MG:dj

**STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE**

Pending Items List
April 6, 2006

A. Future Items

None

B. Suspended Items

None

**STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE
April 6, 2006**

**SCHOOL FACILITY PROGRAM:
PORTABLE CLASSROOMS AND THE ADJUSTMENTS TO
THE NEW CONSTRUCTION BASELINE ELIGIBILITY**

At the October 19, 2005 meeting of the State Allocation Board, members requested that the School Facility Program (SFP) Regulations relating to adjustments to new construction baseline inventory be discussed at a future meeting of the Implementation Committee. At the February 3, 2006 meeting of the Implementation Committee, the Office of Public School Construction (OPSC) presented an overview of the calculation of existing capacity and the impacts of classroom inventory changes on the new construction baseline eligibility. Committee and audience members brought forth a number of concerns in the area of chargeability of portable classrooms. These concerns are summarized below (in italic font) with corresponding OPSC responses to these concerns (in regular font).

1. *The calculation of existing classroom capacity, Option B, includes interim housing portables in the total number of classrooms. The inclusion was questioned as an incorrect interpretation of Education Code (EC) Section 17071.30(b).*

Specifically, EC Section 17071.30(b) states the following:

For purposes of determining the existing school building capacity, each applicant school district shall include each relocatable classroom, whether owned or leased, except as otherwise provided in subdivision (a) or (b).

(a) Relocatable classrooms leased pursuant to Chapter 14 (commencing with Section 17085) shall be excluded from the existing school building capacity. Relocatable classrooms obtained by an applicant district pursuant to subdivision (b) of Section 17088.5 shall be excluded from the existing school building capacity, except as to any relocatable classroom or classrooms for which the district rejected the board's offer to purchase pursuant to that subdivision. Relocatable classrooms leased for a period of less than five years prior to the date of application shall not be included in existing school building capacity.

(b) The number of relocatable classrooms, **reduced by the number of relocatable classrooms used as interim housing for modernization projects**, that exceed 25 percent of the number of permanent classrooms available to the district shall not be included in the existing building capacity.

On the *Existing School Building Capacity* (Form SAB 50-02), under Option B, the interim housing portables are excluded from the total count of portable classrooms but are included in the total classroom count (see Attachment A for an example of the calculation). Some suggest that the EC Section 17071.30(b) directs the districts to exclude the interim housing portables from the total classroom count before calculating the percentage of excess portables.

The law directs districts to count all relocatable (i.e. portable) classrooms that are owned or leased. The law then specifies that the number of portables, minus interim housing portables used for modernization projects, that exceed 25 percent of the number of permanent classrooms can be excluded. There is no provision in law to exclude interim housing portables, under option (b), from the total count of classrooms. Therefore, the current interpretation, as captured on the Form SAB 50-02 is consistent with the language of the law.

2. *Many believe that it is unreasonable to adjust the new construction baseline eligibility for the number of classrooms provided in a locally funded project when these classrooms are replacing other classrooms and the project results in no additional (net) classrooms added to the site.*

Current law and regulations permit the use of SFP modernization grants for classroom replacement. In an SFP modernization project, any additional classrooms constructed over and above the number of classrooms replaced must be reported and the new construction baseline eligibility must be adjusted for the additional classrooms provided. However, the same type of project funded entirely with local funds is treated differently. The district's new construction eligibility is adjusted down for any classrooms constructed, including the classrooms that serve as replacement facilities.

Currently, there is no incentive for districts to raise local funds for facility projects that districts may consider outside of the SFP. This policy discourages local effort, as districts may be unwilling to undertake locally funded projects to improve existing facilities because they may be giving up future SFP new construction funding by having to reduce their new construction baseline eligibility to account for all classrooms provided, including the replaced facilities.

At the same time, when districts undertake locally funded classroom replacement projects, they provide newer facilities but do not provide any additional classrooms to increase their capacity to house pupils. Therefore, the State's obligation to house the number of pupils identified in the new construction baseline eligibility remains. Furthermore, once local funds are expended on replacement projects, a district may have no funds remaining to contribute to future SFP projects that require a funding match.

Therefore, SFP Regulations should permit school districts to replace existing classrooms (one-for-one replacement) with local funds without a downward adjustment to the new construction baseline eligibility provided that these funds are accounted for and the replaced facilities do not generate additional SFP funding eligibility. For example, a determination of financial hardship should include locally funded replacement project expenditures as available district contribution on the next SFP financial hardship project, as these funds could have been available to contribute to an SFP project. These funds should also not be included in determination of the district's bonded indebtedness. Any impact on the financial hardship assistance should be effective for 10 years after the expenditure of local funds on replacement projects.

Furthermore, classrooms replaced should not generate modernization eligibility, as the facilities have been replaced. To ensure the district is not going to create additional housing capacity as a result of the locally funded project, the district would need to certify that the replaced facilities are removed from service as classrooms within six months after the date of initial occupancy of the replacement facilities.

The OPSC will develop proposed regulatory changes for review at the next available Implementation Committee meeting.

3. *Districts must report leased interim housing portables that were counted as leased less than five years once the lease has reached its fifth year. These classrooms are then charged against the district's new construction baseline eligibility. The OPSC should consider a one-time exemption for interim housing portables leased more than 5 years.*

As previously stated the EC Section 17071.75(b) requires the adjustment for any classrooms provided after the baseline has been established. Classrooms that are leased

more than five years no longer meet the definition of excluded, therefore, they must be counted towards available classroom capacity. The law is very specific in requiring an adjustment to the new construction baseline eligibility for additional classrooms provided and does not allow any exemptions to this requirement. Legislative change is needed to provide for such an exemption.

4. *Some believe that the SFP modernization grant with a local match is not sufficient to pay for a replacement portable classroom when considering all the items that must be included for compliance with American with Disabilities Act.*

SFP Regulations permit the use of modernization grants for like-for-like replacement of classrooms. Modernization per-pupil grant is statutorily set and any changes to the amount must be initiated by legislation. The change is not possible within the scope of current SFP Regulations.

5. *School districts would like to be able to receive an eligibility adjustment for portables removed from inventory. Portables may need to be removed from inventory when they are in the way of future construction and cannot be re-used at another site or sold because of their substandard condition.*

The law governing the SFP specifically requires an adjustment to the new construction baseline eligibility for classrooms added to the inventory. There are no provisions in law for adjusting the new construction baseline eligibility for classrooms removed from the inventory. Adjusting new construction eligibility for portables removed would be in conflict with the intent of the law, which provides that new construction eligibility and bond funds to be used for new classrooms for unhoused pupils. In other words, utilizing new construction eligibility generated by the removal of portables is no different than replacing facilities. Also, any removal of classrooms may exacerbate the shortage of facilities in the future and increase the pressure on bond funds.

6. *Districts may have had to acquire large inventories of portables at the inception of the Class Size Reduction Program (CSR). The portables may no longer be needed, yet they may have generated a downward adjustment to the new construction baseline eligibility, which cannot be reversed.*

Since the CSR became operational in 1996, prior to inception of the SFP, a school district may have acquired or leased portables for this purpose before the new construction eligibility was established. Therefore, these portable classrooms would have been included in the determination of the existing classroom capacity. As a result, classrooms leased or acquired for the CSR may have already been excluded either as portable classrooms leased less than five years or as excess portables over 25 percent of permanent classrooms.

It is possible that some districts have portables acquired or leased for the CSR that are no longer occupied. A district that has a need for additional pupil housing can utilize these classrooms at any of the sites with a classroom shortage. The portable buildings provide a degree of maneuverability in management of districts facilities and enrollment fluctuations.

School districts that do not demonstrate new construction eligibility and no longer wish to retain CSR portables can dispose of them. However, new construction eligibility may not be adjusted for the reduction in inventory due to the disposal of classrooms. If it were permitted, then the removal of classrooms could generate new construction eligibility providing districts the opportunity in the future to request State funding to replace the

classrooms that they chose to dispose of rather than creating new classroom space to house more pupils.

7. *Because there is increasing interest in “Preschool for All” initiatives, additional capacity may be needed to house the preschool programs. Alternatively, school districts with unused classrooms may need to re-assign portable classrooms from K-12 instruction or vacant facilities to house preschool programs. The new construction baseline eligibility cannot be adjusted for classrooms assigned for preschool use and that are no longer needed for K-12 instruction.*

The new construction baseline eligibility represents a snapshot of a district’s facilities at a point in time. The baseline must be adjusted for any additional classrooms provided after the snapshot. However, the baseline is not adjusted for classrooms or facilities that are used for preschool and have been built or acquired with funds specifically available for this purpose.

As an alternative to acquiring new portables, districts may utilize existing facilities to accommodate the addition of preschool programs. In that instance, there is also no impact to the new construction baseline eligibility. However, the new construction baseline should not be adjusted for changes in the use of facilities, i.e. the snapshot remains unchanged once eligibility is established.

Any legislative proposals for preschool initiatives should consider the impact of these initiatives on available facilities and school districts’ eligibility for State facility programs.

8. *School district representatives asked for clarification on the instances when classrooms must be reported as additional classrooms provided after the new construction baseline eligibility has been established. These classrooms, such as classrooms that are smaller than 700 sq. ft. or classrooms acquired specifically for and with funds designated for preschool or adult education, are not additional facilities and should not generate a baseline eligibility adjustment as they represent facilities of the same type as the ones that are excluded from the initial classroom inventory.*

The OPSC recognizes the need for clear guidelines for districts on requirements for reporting additional classrooms. The OPSC will provide an Advisory Actions newsletter article for school districts and include this discussion in the SFP Handbook.

9. *One of the questions brought forward dealt with possible adjustment to eligibility for a new portable acquired as a result of the Emergency Repair Program (ERP) project.*

The ERP provides funding for repair or replacement of building systems and components that, in their present condition, create a health and safety risk for pupils and staff. A portable building may qualify for replacement if the cumulative estimate of repairs for all the damaged components exceeds 75 percent of the cumulative replacement cost. Although it is possible for a portable building to qualify for replacement under the ERP, such funding requests appear unlikely. If such projects are approved for funding in the future, an adjustment to the district’s modernization eligibility (if the portable classroom was deemed eligible for modernization) is warranted and the replaced portable should be taken out of classroom use within a specified timeframe. Similar provisions exist today for SFP facility hardship projects.

ATTACHMENT A

Calculation of Existing School Building Capacity
(Example of the Calculation):

Classroom Inventory (NET)	Total
Leased State Relocatable Classrooms	15
Portable classrooms leased less than 5 years	4
Interim Housing Portables leased less than 5 years	4
Interim Housing Portables leased at least 5 years	6
Portable Classrooms leased at least 5 years	6
Portable classrooms owned by the district	25
Permanent Classrooms	40
TOTAL	100

OPTION A:	
Interim Housing Portables leased at least 5 years	6
Portable Classrooms leased at least 5 years	6
Portable Classrooms owned by district	25
Permanent Classrooms	40
TOTAL AVAILABLE CLASSROOMS	77

OPTION B:		
Total Classrooms		100
Total Portable Classrooms except interim housing	50	
25% of permanent classrooms (40 x 0.25)	10	
Portables in excess of 25% above (50 – 10)		(40)
TOTAL AVAILABLE CLASSROOMS		60

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE
April 6, 2006

NEW CONSTRUCTION – ADDITIONAL GRANT FOR REPLACED FACILITIES
(ASSEMBLY BILL 1631)

PURPOSE

To present alternatives for modifying the School Facility Program Regulation Section 1859.73.2 *New Construction Additional Grant For Replaced Facilities* (Assembly Bill (AB) 1631, Chapter 904, Statutes of 2003 (Salinas)) to facilitate an increase in participation using this alternative method for relieving dense sites and adding classroom capacity to an existing school site.

BACKGROUND

At the request of the State Allocation Board (SAB), Staff has been directed to examine possible reasons why there has been limited participation in requests for this additional grant and determine what options are available to enhance district participation.

DISCUSSION

Current Eligibility Criteria

All applicant districts must be able to meet the following criteria:

- Applicant districts must have a site which is less than 75 percent of the California Department of Education (CDE) recommended site size.
- Districts must construct the *greater* of eight classrooms (200 pupils), or classrooms commensurate with 20 percent of the existing pupil capacity of the site based upon State loading standards.
- A cost benefit analysis must be provided which determines that the cost of demolition and construction of a new multi-story building on the same site is less than the total cost of providing a new school facility, including land on a new site for the additional number of pupils housed.
- CDE must determine that this option is the best available alternative and does not create a school with an inappropriate number of pupils in relation to the size of the site.
- The district must replace all the excluded portables for which the district was provided an increase in new construction eligibility to qualify a non permanent building for multi-story replacement.

Due to interest from the SAB, staff has been directed to re-examine what was intended by “increased capacity” through an application requesting the additional grant for replaced facilities.

DISCUSSION (cont.)

Staff's interpretation of AB 1631 (as reflected in Regulation Section 1859.73.2), with concurrence from the IMP Committee, was to increase the classroom capacity for the pupils currently housed on a site and not necessarily to require an increase in the number of pupils enrolled on a site. However, additional pupils could be added to a site, but only as deemed educationally appropriate by the CDE; thereby, allowing for a more efficient use of an already small site.

Example A

Under Current Regulations for 20% of the existing pupil capacity with the ability to house additional pupils.

- A high school site has 75 classrooms (50 permanent and 25 portable) which should house 2,025 pupils.
50 permanent classrooms x 27 per loading standards = 1350 pupils
25 portable classrooms x 27 per loading standards = 675 pupils
2,025 pupils
- The school site currently has an enrollment of 2,300 which should require 85 classrooms.
- The site has a permanent building with 10 classrooms that would be demolished.
- The District could use 405 pupil grants (20% of the existing pupil capacity) from their new construction eligibility to construct a 25 classroom multi story facility. The classroom capacity increases by 15 which would house 405 pupils.
- The site now adequately houses the current enrollment of 2300 pupils on a site with a more efficient use of the site. The site could now house an additional 130 pupils beyond the enrollment if it was deemed appropriate by CDE.

90 classrooms (75 original + 15 new) x 27 pupils per loading standards =	2,430 capacity
Current enrollment	<u>=2,300</u>
Pupil capacity increase to site	130

Example B

Under Current Regulations for 200 pupils with an increase in the number of classrooms constructed, but not an increase in enrollment.

- An elementary school site has 10 classrooms (250 pupils) and a small multipurpose room on the site.
- The enrollment at the site is 450 pupils.
- The District demolishes the multipurpose room.
- The District uses 200 pupil grants from the new construction eligibility to construct a new multipurpose room with 8 additional classrooms on the second level.
- The site now adequately houses the current enrollment of 450 pupils, in addition to an improved multipurpose room.

The requirement that the project would be the greater of the 200 pupils or 20% of the CBEDS enrollment at the site was to insure that the additional grant would be used to maximize the pupil capacity on the site without creating a school with an inappropriate number of pupils in relation to the site size (Pursuant to Education Code 17071.46(a)(1) and (2)).

The reasoning for the minimum threshold for increased capacity was to ensure funds were used prudently to provide a sufficient number of new classrooms on the existing site versus acquiring a new site to construct the same number of classrooms.

The project size requirement was discussed at previous meetings of the IMP Committee and some districts favored increasing the housed capacity by removing one relocatable and replacing it with a two story relocatable. By consensus, the IMP Committee agreed a project of this type would more appropriately be funded through current SFP provisions.

RECOMMENDATION

Staff has developed the following proposal, while staying within the confines of the law, in an attempt to increase district participation in requesting this additional grant:

1. Change the existing requirement to state that the increase in pupil capacity housed shall be the greater of 200 pupils or 20% of the **existing permanent classroom design capacity** at the site.

***Example A
Under Proposed Recommendation.***

- A high school site has 75 classrooms (50 permanent and 25 portable) which should house 2,025 pupils.

$$\begin{array}{r} 50 \text{ permanent classrooms} \times 27 \text{ per loading standards} = 1350 \text{ pupils} \\ 25 \text{ portable classrooms} \times 27 \text{ per loading standards} = \underline{675 \text{ pupils}} \\ \hline 2,025 \text{ pupils} \end{array}$$
- The school site currently has an enrollment of 2,300 which should require 85 classrooms.
- The site has a permanent building with 10 classrooms that would be demolished.
- The District could use 270 pupil grants (20% of the permanent design capacity) from their new construction eligibility to construct a 20 classroom multi story facility. The classroom capacity increases by 10 which would house 270 pupils.
- The increased capacity now adequately houses 2,295 pupils and creates a more efficient use of the site.

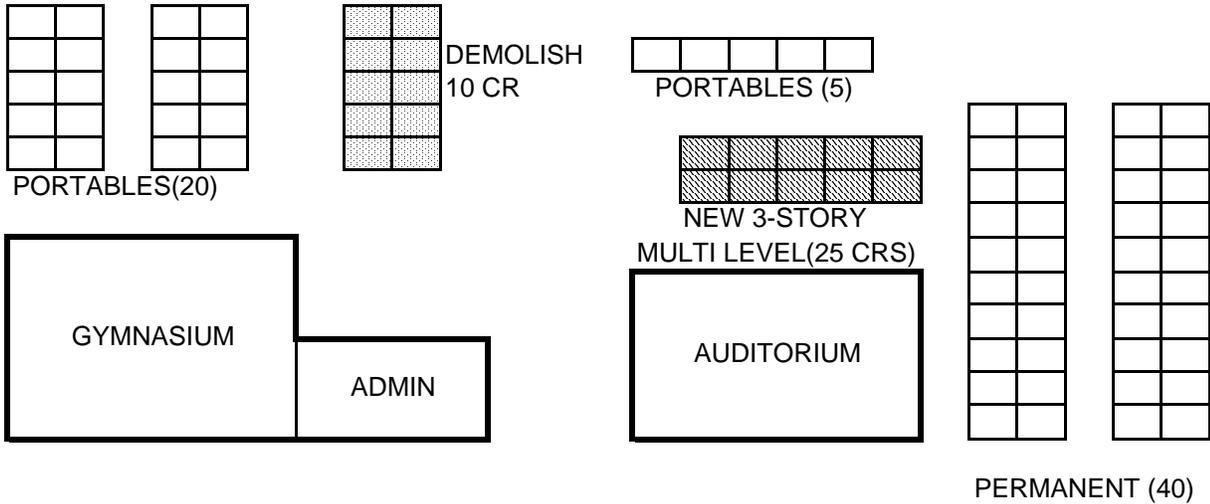
85 classrooms x 27 pupils per loading standards (50 original permanent, 25 portable and 10 new permanent)	2,295 pupil capacity
<u>Current enrollment</u>	<u>2,300</u> pupils
Remaining unhoused pupils at site	(5)

ATTACHMENT

EXAMPLE A - OF CURRENT REGULATION

20% OF EXISTING PUPIL CAPACITY

50 Permanent classrooms (1,350 pupils)
 25 Portable classrooms (675 pupils)
 2300 current enrollment
 90 Total classrooms (2,430 pupil capacity)
 15 classroom increase
 Increase of 130 pupils on site



EXAMPLE A - OF RECOMMENDATION

20% PERMANENT DESIGN CAPACITY

50 Permanent classrooms (1,350 pupils)
 25 Portable classrooms (675 pupils)
 2300 current enrollment
 85 Total Classrooms
 10 Classroom increase
 Adequately houses pupil capacity of 2,295

