

STATE ALLOCATION BOARD

1130 K Street, Suite 400
Sacramento, CA 95814

**IMPLEMENTATION COMMITTEE MINUTES**

July 7, 2006

Legislative Office Building
Sacramento, CA

Members Present

Mavonne Garrity, SAB
Kathy Hicks, OPSC
Fred Yeager, CDE
Chad Rohrs, DOF
Constantine Baranoff, SSD
Mark DeMan, LAUSD
Richard Conrad, DSA

Eric Hall, CASH
Dennis Dunston, CEFPI
Peggy Reyes, CASBO
Gary Gibbs, CBIA
Nina Boyd, CCSESA (Alternate for William Cornelison)
Jay Hansen, SBCTC
Brian Wiese, AIA

Members Absent

Debra Pearson, SSDA

Mavonne Garrity, the Chair of the Implementation Committee, opened the meeting by stating that this meeting was the beginning of many to begin the implementation of Chapter 35, Statutes of 2006 ((Assembly Bill (AB) 127 – Nunez and Perata)). Ms. Garrity requested that all members introduce themselves and state who they represent for the benefit of the audience.

The items for discussion were in the following order: Small High Schools, High Performance Schools, Grant Increase, and the Charter School Facility Program.

SMALL HIGH SCHOOLS

The topic was presented by Steve Paul from the Office of Public School Construction (OPSC). AB 127 provides \$200 million for the construction of new small high schools, and the reconfiguration of existing high schools that have a minimum of 1000 high school pupils into two or more smaller high schools, for the purpose of academic achievement and success in a small learning environment. Since this legislation did not provide any changes to the Small High School Pilot Program, Staff proposed an additional funding cycle be set up under the same guidelines as the current Small High School Program. Additionally, since only three districts are anticipated to apply for the construction of new small high schools, Staff recommended the following changes to the existing requirements to encourage greater district participation:

- Regulation Section 1859.93(c), *New Construction Adjusted Grant for the Small High School Program*, requires that the Small High School must be constructed on a stand alone site with no existing facilities. Staff recommended that:
 - Schools could share core facilities, such as gymnasiums, libraries, and multi purpose rooms provided the small high school was located adjacent to an existing high school.
 - Schools could not share administration or toilet area.
 - Schools could not carve out a section of an existing high school to build their new small high school.

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The Implementation Committee members and members of the audience had the following questions or concerns:

- One Committee Member requested clarification concerning the sharing of toilet facilities within the core facilities. It was clarified that toilet facilities within core facilities could be shared and that only stand alone toilets were excluded from being shared. The purpose of excluding stand alone toilets from being shared was to prevent small high schools from being designed without toilet facilities.
- A member of the audience stated large high schools generally have an extended curriculum, and asked that since small high schools tend to have a more restrictive curriculum, may small high schools share extended curriculum classes.

John Merris Coots, from the California Department of Education (CDE), advised the audience that those schools that have restrictive curriculum are generally related to small learning communities such as academies and small learning pods. Although small high schools may have theme-based instruction, the purpose of a small high school program is to gauge the academic achievements of that small high school. Sharing extended curriculum would not provide an accurate depiction of the academic success of the small high school.

- A member of the audience stated that AB 127 allows for the construction of small learning communities and small high schools and asked if districts could use the funds to build small learning communities such as academies.

Staff stated that there was nothing in AB 1465 that suggested that the Small High School Program was meant for anything other than building small high schools. However, the Chair indicated that the Committee would review the program with the CDE and will report back at the next available Implementation Committee.

- A Committee member asked if there was a high interest level in the small high school program. The CDE indicated that one gauge would be to go back and identify how many individuals and districts were represented at last year's small high school workshops. The CDE will provide staff the data in time for the next Implementation Committee.
- A member of the audience asked if a small high school could be built on the site of an existing high school if that school had excess land available.

Staff stated the program originally was designed to restrict that ability because previous legal counsel opinion indicated that the construction of a small high school on an existing site would not provide an actual depiction of cost. Staff agreed to discuss the issue with legal counsel for further consideration.

- Several concerns were raised on the issue of mandating an administration on the site of each small high school that resulted from reconfiguration. Many audience members stated that this requirement was too cost prohibitive.

Staff believed that it was the educational intent for small high schools to have separate and distinct administration areas for each school. The Chair indicated the OPSC would defer this question to CDE and would report back at the next Implementation Committee meeting.

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- A current requirement of the program is that no matter how many small high schools are created from the reconfiguration of a large high school, only \$500,000 can be allocated for those reconfiguration costs. Many audience members cited that this was not enough money for the reconfiguration. One audience member stated that their reconfiguration costs exceeded \$2 million to reconfigure one large comprehensive high school into four small high schools, equating to \$500,000 for each small high school.

Staff emphasized that the way the statute is written, it provides for no more than \$500,000 in the aggregate. The aggregate is the amount derived from all the small high schools created, and not each small high school separately. Staff further advised that legal counsel provided an interpretation when the program was created supporting this position.

The Chair indicated that this component should be revisited by legal counsel again to see if there is a broader interpretation available and will report back at the next Implementation Committee.

The OPSC and Chair stated that after discussion with the CDE and legal counsel, further discussion items will be presented to the Implementation Committee.

HIGH PERFORMANCE SCHOOLS

The topic was presented by Janna Shaffer and Steve Paul from the OPSC. AB 127 provides \$100 million for modernization and new construction as an incentive to promote the efficient use of energy and water, natural lighting and indoor air quality and recycled materials.

The following program basics were presented for discussion:

- A self certification will be added to the *Application for Funding* (Form SAB 50-04) that states the district has considered the feasibility of using designs and materials for the construction or modernization project that promote the efficient use of energy and water, the maximum use of natural lighting and indoor air quality, the use of recycled materials and materials that emit a minimum of toxic substances, the use of acoustics conducive to teaching and learning, and other characteristics of high performance schools. This certification will be required for all districts whether the project includes a high performance grant request or not.
- The High Performance Rating Criteria will include the following elements:
 - Site
 - Water
 - Energy
 - Materials
 - Indoor Environmental Quality
 - District Resolution
- The District must earn points in each of the elements to earn a minimum of 28 points. New construction and modernization both have a minimum threshold of 28 points with a maximum of 60 points for new construction and 48 points for modernization. The chart presented included the basic range of points that would meet the minimum of 28 points.
- The High Performance Grant for both new construction and modernization will have a minimum percentage of increase to the base grant of 1 percent (28 points) with an incremental increase up to 5 percent.

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- The percentage of high performance will be determined by using the whole building approach.
- The Division of the State Architect (DSA) will oversee the review of the plans/designs and report the high performance rating on the DSA E-Tracker.
- The \$100 million will remain in one fund and will not be divided into separate new construction or modernization funds. A district qualifying for both the Energy Efficiency and High Performance Grant must request funding from only one of the funds.

The Implementation Committee members and members of the audience had the following questions and concerns:

- A Committee Member requested clarification if the High Performance Rating Criteria is parallel to the Collaborative for the High Performing Schools (CHPS) rating criteria. John Baca of the DSA responded that although the scale does mirror CHPS, DSA will be determining the criteria ratings.
- Audience members were concerned that setting the points to 60 to encourage higher performance would be too steep since no district has ever reached 60 points and based on the current scale, it would be impossible for a district to receive the 5% increase. The DSA stated that although the ceiling was currently 60 points, 55 points would probably be more reasonable.
- The Chair and several members of the audience expressed concern over the intent of the program. Some members believed the intent of the program was to encourage more participation by schools while the DSA and OPSC indicated that the incentives had been crafted to encourage higher performance.
- Several members of the committee and the audience indicated that the amount of the grant is much too low as it doesn't cover the cost of including these components into the plans. The DSA indicated that the payback resulting from the reduced energy consumption should be considered into the development of the grant, which is estimated to be within one year to three years.
- Since there was considerable concern over the rating criteria, scale, and grant amount recommended, the Chair recommended that a work group be created to provide input on the costs of the design for a High Performance School. Suggested members of the work team were identified as Dennis Dunston of the Council of Educational Facility Planners International, Brian Wiese of the American Institute of Architects, Eric Hall of the Coalition for Adequate School Housing, California Energy Commission, Department of Finance, OPSC, DSA, CHPS, and Global Green USA.

Staff will meet with the work group to discuss the High Performance School Grant and present additional information at the next available meeting.

GRANT INCREASE

The topic was introduced by Mavonne Garrity and presented by OPSC staff member Karen Sims.

Section 3 of AB 127 adds Education Code (EC) Section 17072.11 to the EC. This EC provides

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for an increase to the School Facility Program New Construction per-pupil base grant of seven percent for elementary and middle school pupils and four percent for high school pupils beginning July 1, 2006 until January 1, 2008. The statute also directs the State Allocation Board (SAB) to annually increase the grant amount by up six percent, or reduce the grant amount by an amount determined based on an analysis of the current costs to build schools.

The first issue discussed was the grant increase. Staff proposed that the seven percent increase for elementary and middle school pupils and the four percent increase for high school pupils be applied to the grant amounts provided in EC Section 17072.10 and then the Construction Cost Index of 1.36 (the increase from 1998 to 2006) be applied to determine the adjusted per-pupil grant amount.

Members of the Implementation Committee were concerned about the methodology used to determine the adjusted per-pupil grant amount and one member requested that we review the methodology that they used to determine the current grant amount.

The second issue discussed was how to gather data in order to determine the per-pupil grant adjustment starting in January 2008. Staff proposed to make changes to the *Fund Release Authorization* (Form SAB 50-05) and the *Expenditure Report* (Form SAB 50-06) to capture the current costs of construction. The changes would include, but not be limited to, requesting information on bid data, square footage of the project, and types of buildings being constructed.

Members of the Committee and the audience expressed concern about the amount of detail that would be required on the Forms SAB 50-05 and 50-06, the amount of time that it would take to complete the forms, and the possibility that the changes may delay a district's fund release. Another concern was how the information was to be used. One suggestion was to require only the square footage of the project and the cost per square foot. Another suggestion was to do a random sampling and not require every school district to supply all the information. However, by doing a random sampling, enough data may not be collected to do a thorough analysis.

There was also discussion on how and when the per-pupil adjustment might be applied. One suggestion was to allow the SAB to make more than one increase per fiscal year, if the study warranted it as long as it did not exceed the six percent total as provided in statute.

The Committee also discussed whether or not the annual per-pupil adjustment should take into account the CCI when determining the per-pupil adjustment.

The OPSC recognized the various concerns and agreed it would consider the suggestions and return with proposed regulatory changes to the August meeting.

CHARTER SCHOOL FACILITY PROGRAM

This item was introduced by Mavonne Garrity and presented by OPSC staff member Juan Mireles.

The OPSC staff presented a brief history of the Charter School Facility Program (CSFP) then discussed how one of the major amendments to the CSFP changes the manner in which eligibility is adjusted for the construction of charter school projects based on the number of district unhoused pupils the project will house. As such, Staff presented the requirement that districts must demonstrate an unhoused need in the form of new construction eligibility for at least the number of pupils requested in the project. However, there was discussion and disagreement with the interpretation of the language that new construction eligibility is required, and it was agreed that the eligibility portion of the new legislation would be discussed at a future Implementation Committee meeting.

Staff continued with a discussion of the requirement that district school boards certify as to the number of unhoused students that would be housed in a charter school project. Once the District is notified of a charter school facilities application, the District would have 60 days to determine the number of pupils that would be housed in the charter school project and to bring the determination as an action item at a regularly scheduled school board meeting. The District would be required to submit a board member signed resolution and supporting documentation to the OPSC within the 60 days. There were questions about the timelines being too short and whether or not it was necessary that a school board be required to certify as opposed to the District Representative. Staff agreed to review the issues further and possibly present alternatives at a future Implementation Committee Meeting.