

**STATE ALLOCATION BOARD**1130 K Street, Suite 400  
Sacramento, CA 95814**IMPLEMENTATION COMMITTEE MINUTES**

July 21, 2006

Legislative Office Building  
Sacramento, CA**Members Present**

Mavonne Garrity, SAB	William Savidge, CASH (Alternate for Eric Hall)
Kathy Hicks, OPSC	Dennis Dunston, CEFPI
Fred Yeager, CDE	Peggy Reyes, CASBO
Lynn Podesto, DOF (Alternate for Chad Rohrs)	Gary Gibbs, CBIA
Thomas Todd, DOF	William Cornelison, CCSESA
Constantine Baranoff, SSD	Jay Hansen, SBCTC
Mark DeMan, LAUSD	Brian Wiese, AIA
Richard Conrad, DSA (Alternate for Dennis Bellet)	

**Members Absent**

Debra Pearson, SSDA

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Mavonne Garrity, the Chair of the Implementation Committee, opened the meeting by stating that the discussion item for the Overcrowding Relief Grant was pulled from the agenda and will be presented at the September Implementation Committee meeting.

The remaining items for discussion were presented in the following order: Supplemental Funding for Accessibility Requirements on Modernization Projects, Charter School Facility Program, and Seismic Mitigation/Replacement.

**EXCESSIVE COST HARDSHIP GRANT FOR ACCESSIBILITY REQUIREMENTS ON MODERNIZATION PROJECTS**

This item was introduced by Mavonne Garrity and presented by the Office of Public School Construction (OPSC) staff member Karen Sims.

At the May 2006 State Allocation Board (SAB) Meeting, the Board requested that Staff present proposals to the Implementation Committee (Committee) regarding the excessive cost grant for access compliance requirement on modernization projects.

Since the costs for access compliance vary significantly from project to project, Staff proposed funding access compliance on a project-by-project basis. The proposal stated that the excessive cost hardship grant will be determined based on the actual eligible costs to complete the minimum work necessary for access compliance as determined by the Division of the State Architect (DSA) and verified by the OPSC. However, the total of the base grant and excessive hardship grant that a district can receive cannot exceed 50 percent of the replacement cost. For purposes of this calculation, 50 percent of the replacement cost is equal to the new construction base grant multiplied by the number of pupil grants in the modernization application.

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## **EXCESSIVE COST HARDSHIP GRANT FOR ACCESSIBILITY REQUIREMENTS ON MODERNIZATION PROJECTS (cont.)**

The original calculation presented for the maximum allowance took into account an assumption that seven percent of the modernization base grant is provided for access compliance requirements, which in turn, could possibly reduce the amount of funding a project would receive for access compliance. After much discussion, it was agreed that when calculating the maximum allowance for the excessive cost hardship grant, the first seven percent will be considered part of the modernization base grant. The audience wanted to know if the excessive cost hardship grant also includes soft costs. Staff agreed to review the question and provide an answer at the next available Committee meeting. The audience also suggested that projects exceeding the 50 percent replacement cost be brought to the Board on a case-by-case basis; however, after discussion, this option was not pursued.

To determine the minimum work necessary, the architect of record will prepare a listing of all the accessibility requirements included in the contract documents along with the unit cost of each item. The list will be included as part of the submittal package to the DSA's Access Compliance Unit (ACU). The ACU will review the plans and verify the minimum work necessary to receive DSA approval. The verified list will then be submitted to the OPSC along with the contract documents and a detailed cost estimate. The OPSC Plan Verification Team will review the package to verify the eligible excessive cost hardship grant for the project. Staff agreed to work with the DSA to prepare a standardized format for submitting the listing for review.

Staff also explained that a district with a modernization funding application currently on the unfunded list could withdraw and re-submit the application (with a new date in line) if the district wishes to access the revised grant once the regulations are effective.

Staff agreed to bring regulations reflecting what was agreed upon regarding the change in the calculation methodology to the next available Implementation Committee meeting.

## **CHARTER SCHOOL FACILITY PROGRAM**

This item was introduced by Mavonne Garrity and presented by OPSC staff members, Juan Mireles and Barbara Kampmeinert.

The OPSC staff summarized the Charter School Facilities Program (CSFP) discussion that took place at the July 7, 2006 Implementation Committee Meeting and stated that the new construction eligibility requirement, along with the district certification component, is still being reviewed and will be presented at a future meeting.

Staff began the discussion by proposing to make the rehabilitation component of the CSFP substantially identical to modernization with the exception that the buildings must be at least 15 years old. Projects that receive a rehabilitation apportionment will be considered modernized and the appropriate adjustments to the modernization eligibility would be required. In order to be eligible for rehabilitation, the facilities could not have been previously built or modernized with School Facility Program (SFP) funding. Both permanent and portable classrooms would be eligible and a reconfiguration project should not displace Minimum Essential Facilities (MEF). A MEF could be reconfigured into classrooms, but a project would also have to include the replacement of the MEF. In order to qualify for rehabilitation, the district would have to submit an application on behalf of a charter school. Funding for a rehabilitation project would be based on the same square footage dollar amounts established for the Joint Use and Facility Hardship rehabilitation programs up to the amount that would be provided in a new construction project. The State would provide fifty-percent of the funding for a CSFP rehabilitation project requiring districts to provide a matching share. OPSC staff also explained that AB 127 allows for preference points for the use of existing school district facilities

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**CHARTER SCHOOL FACILITY PROGRAM (cont.)**

and that the Deferred Maintenance regulations will be changed to require that any work accomplished in a rehabilitation project must be removed from the district's 5-year plan.

There was extensive discussion about the rehabilitation of previously modernized buildings. The likelihood of districts rehabilitating previously modernized buildings, the calculation of the age of a building, the determination of what has been modernized, the extensive amount of funding provided for rehabilitation and the variety of uses of rehabilitation funding were discussed.

Questions were raised about the filing period for the new applicants. Staff explained that the filing period would commence 30 days after the bond passes and it would last 120 days, thereafter. It was suggested that charters may need more time to explore the new rehabilitation component of the law. Staff stated that they would review adjusting the filing period and report back at a later meeting.

OPSC staff then presented other aspects of AB 127 in regard to the CSFP. It was explained that there would be a certification on the preliminary application that charter schools and school districts have considered existing facilities pursuant to Proposition 39 requirements. Also, there was a removal of funding and acreage caps. CSFP applicants under the new bond language would be entitled to allowable additional grants as well as an inflator factor, similar to Proposition 47 CSFP apportionment recipients. Also, the pools for hazardous materials, relocation costs and DTSC would be removed since they are not needed. In addition, there are tri-party agreements that apply to all three charter school bonds that are going to be required to be in place before releasing either an advance apportionment for site acquisition or upon final conversion.

Discussion ensued in regard to the nature of the tri-party agreements, whether they are statutorily required, the timing of the user agreement, the agreements associated specifically with rehabilitation, the flexibility to modify the agreements and the potential difficulty in getting a school district to sign them. Staff explained that the tri-party agreements are statutorily required and that they are able to be modified for specific situations. Staff explained that the California School Finance Authority is the lead agency in developing the agreements and those specific questions should be directed to their office.

Staff went on to explain that there would be no project savings, nor could savings be used toward the charter school's matching share. Also, the notification to the school district of a charter school's intention to build or rehabilitate would not change. Then a discussion ensued in regard to the certification by a school district. Staff stated that the topic would be covered at a future Implementation Committee meeting.

Staff reported that a project description would be required on the preliminary application so that charter school applicants could accurately report on the application what they truly intend to build. The definition of "general location" would also change to provide more flexibility. In addition, the information collected for the low-income determination would be done in October and all calculations would be round to ".5" and up.

A comment was made that some districts submitted free/reduced lunch data to the federal government. Staff stated that they would look into the type of information submitted to the federal government to determine if it would be identical to the information submitted to the California Department of Education.

Lastly, staff asked for suggestions on tie-breaking criteria when applications received the same preference points. Suggestions included a lottery and the extent to which a project would relieve overcrowding.

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## SEISMIC MITIGATION

The topic was presented by Katrina Valentine from the OPSC.

AB 127 provides up to \$199.5 million for seismic mitigation of the most vulnerable school facilities that are a Category 2 building that pose an unacceptable risk of injury to its occupants in the event of a seismic occurrence. AB 127 provides amendments to Education Code Section 17075.10 and the Facility Hardship Program.

The first issue discussed was “Category 2” buildings as defined in a report by the DSA. Staff indicated that the DSA is currently determining the criteria of the most vulnerable of the Category 2 buildings which will be presented at a future meeting. The following questions or concerns were expressed:

- One committee member asked if a building needs to be on the Category 2 list to qualify for funding. Staff clarified that the Category 2 list is not exclusive.

Another member asked for clarification on whether all buildings identified in the Category 2 list qualify as the most vulnerable. Staff clarified that since there is less than \$200 million dollars for seismic mitigation and the DSA report indicates that the cost to rehabilitate all of the Category 2 buildings would exceed \$4.7 billion, the DSA will review many factors to narrow the field of buildings that qualify for the funding to ensure that the limited funding goes to the “most vulnerable” of a Category 2 building.

- Another member asked if a Category 2 building also had deteriorating conditions, would that building receive higher priority for funding consideration under the seismic program. Staff clarified that the Facility Hardship Program provides funding for those purposes when there is a substantiated imminent health and/or safety threat, and that it specifically provides for the replacement or rehabilitation of buildings that are no longer in compliance with the code at the time of original construction.

The second issue discussed was related to project funding under the seismic provision. Staff proposed that the filing period be based on a first come, first serve basis once it is determined by the DSA that the building meets the criteria of the most vulnerable of a Category 2 building. Funding would be provided on a 50/50 basis and would be consistent with the way facility hardship projects are currently funded. The following questions or concerns were expressed:

- A member of the audience commented that the costs to school districts for the purpose of securing structural engineering reports to determine whether the building met the criteria of the most vulnerable of a Category 2 building had the potential of creating a significant adverse impact to those districts. Staff and the DSA representative clarified that the ranking mechanism for this program would begin with qualifying parameters that would immediately and with relatively little or no expense determine whether or not the building meets the definition of the most vulnerable of the Category 2 buildings. Staff further clarified that the costs to secure the necessary reports would be an allowable expenditure for the project provided the project receives a funding approval.
- The Committee expressed concern regarding the adequacy of the square footage dollar amount provided in Regulation for the Current Replacement Cost. It was agreed that this issue should be more appropriately addressed by the Grant Adequacy Ad Hoc Committee.
- A member of the audience expressed concern whether projects could qualify for seismic mitigation if the district is experiencing declining enrollment. Staff explained that, just as in the case of the Facility Hardship Program, there must be an on-going unmet need for the facilities. This does not necessarily disqualify projects where there is negative enrollment, but each is looked at on a case-by-case basis to determine if there are unique and compelling circumstances which may justify the facilities.

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**SEISMIC MITIGATION (cont.)**

Staff also proposed a concurrent regulation with the seismic regulatory changes that would clarify the adjustment to the modernization eligibility baseline when a replacement project is approved.

The Chair requested that this item be brought back to the Committee at a subsequent meeting to discuss the criteria of the most vulnerable Category 2 buildings.