

STATE ALLOCATION BOARD

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Date: February 16, 2007
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 Friday, March 2, 2007 from 9:30 a.m. to 3:30 p.m.

The Implementation Committee's proposed agenda is as follows:

1. Convene Meeting.
2. Implementation of Chapter 585, Statutes of 2006 (Assembly Bill 2947 – Goldberg)
Continued discussion on proposed amendments to the School Facility Program regulations relating to the transfer of special education programs and facilities from one local educational agency to another.
3. Emergency Repair Program
Discussion on eligible grants for administrative and application filing fees.
4. Implementation of Chapter 810, Statutes of 2006 (Senate Bill 1415 - Scott).
Discussion on the use of proceeds from the sale of surplus property.

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 Deah Johnson at (916) 445-3377.

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

MAVONNE GARRITY, Chairperson
State Allocation Board Implementation Committee

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**STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE**

**Pending Items List
March 2 , 2007**

A. Future Items

- Site Sale Proceeds

Discussion on proposed regulatory amendments regarding proceeds from the sale of a site funded in whole or part with State funds.

- Prior Bond Funds

Discussion on the use of prior bond funds

B. Suspended Items

- Alternative Education Loading Standards and Funding

Discussion on the loading standards and adequacy of the funding provided for continuation high, community day, and county community day schools under the School Facility Program.

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE MEETING
March 2, 2007

TRANSFER OF SPECIAL EDUCATION PROGRAMS

PURPOSE

To discuss the implementation of Assembly Bill (AB) 2947 [Chapter 35, Statutes of 2006, (Goldberg)].

BACKGROUND

AB 2947 amends Education Code Section 17071.75 to address the transferring of facilities from a grantor to a grantee and the impact this would have on their corresponding baseline eligibility. The bill allows for three basic things: the adjustments of school building capacity for qualifying districts and county offices of education (COE), the adjustments of projected enrollment for qualifying districts and COEs, and the compensation of the State in certain instances of facilities transfer.

In the case of a COE, a typical project consists of placing several classrooms on an existing school district's site for Special Day Class (SDC) pupils, or filing a joint application with a school district for a new school. In the case of the joint filing, the COE typically requests pupil grants for SDC pupils, while the district would request pupil grants for the remainder of the K-12 pupils. Recently there have been situations where school districts are assuming the responsibility of administering their own Special Education Local Plan Area (SELPA) programs. In this case, there may be a transfer of SFP funded facilities from the COE (the 'grantor') to the school district (the 'grantee'), where the projects are located, resulting in an increase in the grantee's enrollment and a decrease in the grantor's enrollment. Transfers from school district to COE will follow the same methodology.

AUTHORITY

Education Code Section (ECS) 17071.75. (Please see Attachment A.)

DISCUSSION

School building capacity and projected enrollment adjustments:

AB 2947 will require the existing school building capacity calculation to be reduced by the number of pupils that were housed in facilities to which the grantor relinquished title, as the result of a transfer of a special education program between a school district and a COE or SELPA. When calculating projected enrollment in these cases, the enrollment calculation of SDC pupils receiving special education services is adjusted in the enrollment reporting period in which the transfer occurs and three previous school years as a result of any transfer of a special education program between a school district and a COE or a SELPA. The law limits the adjustment of the capacity or projected enrollment to instances in which a transfer of title for the special education program facilities has occurred. In order to discourage continual shifting of eligibility between the COE and the local school districts, a District's eligibility for transferred facilities will only be changed once in a five-year period.

Any transfer taking place after the establishment of both districts' baseline eligibility can be adjusted for as of January 1, 2007, provided that any necessary remittance occurs as a result of the transfer pursuant to ECS 17071.75 (f).

Funds remitted to the State:

Additionally, AB 2947 requires that if a transfer of title to special education program facilities constructed with state funds occurs within 10 years after initial occupancy of the facility, the grantee(s) shall remit to the state "a proportionate share of any financial hardship assistance" provided for the project as specified, if applicable. During the initial discussions of this item committee and audience members questioned whether there was going to be any depreciation to the value of the facilities being transferred. Staff discussed the issue of depreciation with legal counsel and it was concluded that the bill's intent was not related to

depreciated values of any facilities being transferred. Staff also believes that even though there is no legal room to depreciate the facilities being transferred, the rapidly increasing construction costs in essence give the grantee a discount on those facilities, when comparing the current cost of construction to what the building would be worth if sold.

If the grantee does not qualify for financial hardship status at the time of the facilities transfer, the State will determine the amount of money owed based on prorating the State funding initially apportioned to the project by the square footage of facilities transferred, less any site acquisition for the project (unless the transfer includes land acquisition).

In order to ensure compliance with all relevant laws when transferring a project and/or facilities between a district and COE, the grantor and grantee will be required to send a letter, signed by a valid representative from each party, to the OPSC at the time of the facilities transfer. The letter will also initiate the process of the grantee remitting any funds due to the State and completing the baseline adjustments for the transferred facilities. The details of the letter are stated on the *Enrollment Certification* (Form SAB 50-01).

Another issue raised was related to the process of repayment of any funds related to a facilities transfer. Staff proposed a 60 day timeline pursuant to current regulatory guidelines. The idea that grantees would also be able to utilize the regulations adopted pursuant to AB 607 to repay any funds in five years was discussed. It was confirmed that the repayment regulations adopted pursuant to AB 607 only apply to audit findings, and that these types of transfers do not constitute audit findings. For this reason, staff has the flexibility to allow the standard 60 days, but to also allow up to five years for the repayment period if needed by the District.

Continuing the discussion of remittance of State funds, there was a question asked of staff about using pupil grant eligibility to repay the State in lieu of having to remit a portion of the financial hardship assistance provided. In essence this would create a "double hit" on the transferred classroom instead of a monetary repayment. Staff discussed this with legal counsel and concluded that the bill does not provide the authority to allow Districts to utilize this suggested method of remittance.

Regulatory Changes (please see Attachments B and C):

- Section 1859.50: A paragraph will be inserted to add a time limit on the transfer of special education facilities after an initial transfer.
- Section 1859.51(r): An adjustment line will be added to increase the new construction baseline eligibility for facilities lost in a special education facilities transfer. At the same time this adjustment is made, an adjustment for the decrease to the grantee's new construction baseline will be made pursuant to Section 1859.51(i) for the classroom(s) provided.
- Section 1859.106: A paragraph will be added as part of program accountability, to capture any funding due to the State as a result of a special education facility transfer.
- Form SAB 50-01: Instructions will be clarified to include the situation of a special education program transfer.

Additional non-substantive SFP Regulation changes, not related to AB 2947:

- 1859.43 (b) (1): The language delineating the calculation for the SDC enrollment projection will be corrected to correspond with the calculations made on the Form SAB 50-01 (EXCEL) as currently they are inconsistent.
- 1859.51 (p): Language will be added to expand these adjustments to be available to Critically Overcrowded School Preliminary Apportionments funded in 2004.
- Form SAB 50-01: The instructions will clarify which SDC pupils are to be reported on that form, to correspond to which pupils are reported to the California Department of Education and housed by the district.

RECOMMENDATION

Present proposed regulations at the next available SAB meeting.

ATTACHMENT A

AB 2947, Goldberg.

School facilities: school building capacity: transfer of special education programs

1 17071.75. After a one-time initial report of existing school
2 building capacity has been completed, the ongoing eligibility of a
3 school district for new construction funding shall be determined by
4 making all of the following calculations:
5 (a) A school district that applies to receive funding for new
6 construction shall use the following methods to determine projected
7 enrollment:
8 (1) A school district that has two or more schoolsites each with a
9 pupil population density that is greater than 115 pupils per acre in
10 kindergarten and grades 1 to 6, inclusive, or a schoolsite pupil
11 population density that is greater than 90 pupils per acre in grades
12 7 to 12, inclusive, as determined by the Superintendent using
13 enrollment data from the California Basic Educational Data System for
14 the 2004-05 school year, may submit an application for funding for
15 projects that will relieve overcrowded conditions. That school
16 district may also submit an alternative enrollment projection for the
17 fifth year beyond the fiscal year in which the application is made
18 using a methodology other than the cohort survival method as defined
19 by the board pursuant to paragraph (2), to be reviewed by the
20 Demographic Research Unit of the Department of Finance, in
21 consultation with the department and the Office of Public School
22 Construction. If the Office of Public School Construction and the
23 Demographic Research Unit of the Department of Finance jointly
24 determine that the alternative enrollment projection provides a
25 reasonable estimate of expected enrollment demand, a recommendation
26 shall be forwarded to the board to approve or disapprove the
27 application, in accordance with all of the following:
28 (A) Total funding for new construction projects using this method
29 shall be limited to five hundred million dollars (\$500,000,000), from
30 the Kindergarten-University Public Education Facilities Bond Act of
31 2004.
32 (B) The eligibility amount for proposed projects that relieve
33 overcrowding is the difference between the alternative enrollment
34 projection method for the year the application is submitted and the
35 cohort survival method, as defined by paragraph (2), for the same
36 year, adjusted by the existing pupil capacity in excess of the
37 projected enrollment according to the cohort survival projection
38 method.

39 (C) The Office of Public School Construction shall determine
40 whether each proposed project will relieve overcrowding, including,
41 but not limited to, the elimination of the use of Concept 6
42 calendars, four track year-round calendars, or busing in excess of 40
43 minutes, and recommend approval to the board. The number of unhoused
44 pupil grants requested in the application for funding from the
45 eligibility determined pursuant to this paragraph shall be limited to
46 the number of seats necessary to relieve overcrowding, including,
47 but not limited to, the elimination of the use of Concept 6
48 calendars, four track year-round calendars, or busing in excess of 40
49 minutes, less the number of unhoused pupil grants attributed to that
50 school as a source school in an approved application pursuant to
51 Section 17078.24.

52 (D) A school district shall use the same alternative enrollment
53 projection methodology for all applications submitted pursuant to
54 this paragraph and shall calculate those projections in accordance
55 with the same districtwide or high school attendance area used for
56 the enrollment projection made pursuant to paragraph (2).

57 (2) A school district shall calculate enrollment projections for
58 the fifth year beyond the fiscal year in which the application is
59 made. Projected enrollment shall be determined by utilizing the
60 cohort survival enrollment projection system, as defined and approved
61 by the board. The board may supplement the cohort survival
62 enrollment projection by the number of unhoused pupils that are
63 anticipated as a result of dwelling units proposed pursuant to
64 approved and valid tentative subdivision maps.

65 (b) (1) Add the number of pupils that may be adequately housed in
66 the existing school building capacity of the applicant school
67 district as determined pursuant to Article 2 (commencing with Section
68 17071.10) to the number of pupils for whom facilities were provided
69 from any state or local funding source after the existing school
70 building capacity was determined pursuant to Article 2 (commencing
71 with Section 17071.10). For this purpose, the total number of pupils
72 for whom facilities were provided shall be determined using the pupil
73 loading formula set forth in Section 17071.25.

74 (2) Subtract from the number of pupils calculated in paragraph (1)
75 the number of pupils that were housed in facilities to which the
76 school district or county office of education relinquished title as
77 the result of a transfer of a special education program between a
78 school district and a county office of education or special education
79 local plan area, if applicable. For this purpose, the total number
80 of pupils that were housed in the facilities to which title was
81 relinquished shall be determined using the pupil loading formula
82 adopted by the board pursuant to subparagraph (B) of paragraph (2) of
83 subdivision (a) of Section 17071.25. For purposes of this paragraph,
84 title also includes any lease interest with a duration of greater

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than five years.

(c) Subtract the number of pupils pursuant to subdivision (b) from the number of pupils determined pursuant to paragraph (2) of subdivision (a).

(d) The calculations required to establish eligibility under this article shall result in a distinction between the number of existing unhoused pupils and the number of projected unhoused pupils.

(e) Apply the increase or decrease resulting from the difference between the most recent report made pursuant to Section 42268, and the report used in determining the baseline capacity of the school district pursuant to subdivision (a) of Section 17071.25.

(f) For purposes of calculating projected enrollment pursuant to subdivision (a), the board may adopt regulations to ensure that the enrollment calculation of individuals with exceptional needs receiving special education services is adjusted in the enrollment reporting period in which the transfer occurs and three previous school years as a result of any transfer of a special education program between a school district and a county office of education or a special education local plan area. However, the projected enrollment calculation of a county office of education shall only be adjusted if a transfer of title for the special education program facilities has occurred. The regulations, if adopted, shall ensure that if a transfer of title to special education program facilities constructed with state funds occurs within 10 years after initial occupancy of the facility, the receiving school district or school districts shall remit to the state a proportionate share of any financial hardship assistance provided for the project pursuant to Section 17075.10, if applicable.

(g) For a school district with an enrollment of 2,500, or less, an adjustment in enrollment projections shall not result in a loss of ongoing eligibility to that school district for a period of three years from the date of the approval of eligibility by the board.

ATTACHMENT B
Article 5. Enrollment Projections

Section 1859.43. Projecting Special Day Class Enrollment

The district enrollment, as reported on the Form SAB 50-01, shall be used to calculate the district's projected Special Day Class enrollment. The OPSC shall use the following methodology to determine the district's projected enrollment:

- (a) The projected enrollment of each classification of Special Day Class students served by a school district shall be computed by multiplying the reported enrollment of Special Day Class students by the five-year projection of the same grade level of students as determined by Section 1859.42. The resulting value shall be divided by the current enrollment of the same students as provided on Form SAB 50-01.
- (b) The projected enrollment of each classification of Special Day Class students served by a county office of education shall be computed as follows:
 - (1) Determine the percentage change in total Special Day Class enrollment from the previous current year to the current previous year; determine the percentage change in total Special Day Class enrollment in the second previous year to the second previous year; determine the percentage change in total Special Day Class enrollment in the third second previous year to the second third previous year. To determine the average annual increase, add the three percentage changes and divide by three.
 - (2) The current Special Day Class enrollment provided by the county office of education as reported on Form SAB 50-01, shall be adjusted by the average annual percentage change in (1) for each year until the five-year projected enrollment has been determined.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.75 and 17071.76, Education Code.

Article 6. New Construction Eligibility Determination

Section 1859.50. Calculations to Determine New Construction Baseline Eligibility.

The district shall calculate its eligibility determination by completion of the Form SAB 50-03. Eligibility determination for New Construction Grant(s) may be requested on either a district-wide basis, a HSAA or Super HSAA basis.

If a district requests to have its eligibility determination made on a district-wide basis, eligibility for future grants in the district must be filed on the same basis for a period of five years from the date the district received an apportionment that was justified by eligibility determined on a district-wide basis.

If a district requests to re-file its eligibility determination from district-wide to HSAA or Super HSAA after the five year time period has elapsed, the existing school building capacity in the HSAA or Super HSAA will be determined based on the classrooms available in the HSAA or Super HSAA at the time of the initial district-wide request for eligibility determination. Once the baseline eligibility has been determined for the HSAA or Super HSAA, it will be adjusted for classrooms constructed, funded or acquired in that HSAA or Super HSAA as provided by Section 1859.51.

If the district requests to have its eligibility determination made on a HSAA or Super HSAA, it must meet the criteria of Section 1859.41.

The calculated eligibility on the Form SAB 50-03, is the initial eligibility of the district, the HSAA or Super HSAA and shall be referenced as the baseline eligibility for future SFP funding. The baseline eligibility is the basis for filing Form SAB 50-04, for a new construction SFP grant.

If a special education program is transferred between a school district and a county office of education, adjustments to both district's enrollment projection and capacity shall be made pursuant to Education Code Sections 17071.75 (b)(2) and (f). There shall not be any further adjustments made as a result of any subsequent transfers of those classroom(s) for a period of five years from the date of the initial transfer or before all applicable funds have been

remitted to the State as a result of the initial transfer. The School District shall submit a Form SAB 50-01 for enrollment changes due to the transfer upon completion of the transaction.

A district affected by a reorganization election on or after November 4, 1998 may file an application for a determination of new construction baseline eligibility after a successful reorganization election.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.10, 17071.25, 17071.30, 17071.33, 17071.40, 17071.75 and 17071.76, Education Code.

Section 1859.51. Adjustments to the New Construction Baseline Eligibility.

The baseline eligibility for new construction determined on the Form SAB 50-03, will be adjusted as follows:

- (a) Reduced by the number of pupils provided grants in a new construction SFP project and by the number of pupils that received a Preliminary Apportionment pursuant to Section 1859.140 or a Preliminary Charter School Apportionment pursuant to Section 1859.160.
- (b) Reduced by the number of pupils housed, based on the loading standards pursuant to Education Code Section 17071.25(a)(2)(A), in a new construction LPP project funded under the provisions of the LPP pursuant to Sections 1859.12 or 1859.13.
- (c) Reduced by the number of pupils housed in additional classrooms constructed or purchased based on the loading standards, pursuant to Education Code Section 17071.25(a)(2)(A), in a modernization SFP project.
- (d) Adjusted as a result of the audit findings made pursuant to Sections 1859.90 and 1859.105.
- (e) Increased/decreased by changes in projected enrollment in subsequent enrollment reporting years for all districts except decreases as provided in (j) below.
- (f) Adjusted as a result of errors or omissions by the district or by the OPSC.
- (g) Adjusted as a result of amendments to these Regulations that affect the eligibility.
- (h) Increased by the number of pupils eligible for grants pursuant to Section 1859.82 (a).
- (i) Reduced by the number of pupils housed, based on loading standards pursuant to Education Code Section 17071.25(a)(2)(A), in any Classroom Provided after the baseline eligibility was determined by the Board with the exception of those pupils housed or to be housed in a classroom:
 - (1) That is a trailer and transportable/towed on its own wheels and axles.
 - (2) Of less than 700 interior square feet.
 - (3) Excluded pursuant to Education Code Section 17071.30.
 - (4) Where the contract for the lease, lease-purchase, purchase, or construction of the classroom was made prior to January 1, 2000.
 - (5) That is included in a SFP project where the district has funded a portion of the project beyond its required district contribution and the pupil capacity of the classroom does not exceed 150 percent of the number of pupils receiving a new construction grant (rounded up) for the SFP project.
 - (6) That was acquired with joint-use funds specifically available for that purpose.
- (j) For Small School Districts, decreased:
 - (1) By any reduction in projected enrollment that follows a three-year period after the district's eligibility was approved by the Board.
 - (2) By any increase in the number of pupils included in the latest operational grant report made by the CDE pursuant to Education Code Section 42268 beginning three years after the district's most current eligibility was approved by the Board. The reduction in eligibility shall be determined by the number of pupils included in the latest operational grant report that exceed the number of pupils included in the operational grant report in effect when the district's most current eligibility was approved by the Board or adjusted by a subsequent operational grant report after that date.
- (k) Adjusted for any change in classroom inventory as a result of a reorganization election.
- (l) For classroom loading standards adopted by the Board for non-severely disabled individuals with exceptional needs and severely disabled individuals with exceptional needs.
- (m) As directed by the Board due to a finding of a Material Inaccuracy pursuant to Regulation Section 1859.104.1.
- (n) Increased by the number of pupils that received a Preliminary Apportionment that was rescinded pursuant to Section 1859.148 or a Preliminary Charter School Apportionment that was rescinded pursuant to Section 1859.166.

- (o) Adjusted for operational grant changes as determined/provided by the California Department of Education.
- (p) For a HSAA district with Preliminary Apportionments within the 2002 or 2004 Critically Overcrowded School Facilities Account as follows:
 - (1) Decreased by the number of pupils that received a Preliminary Apportionment, distributed proportionately among HSAA's in which the pupils used to justify the conversion of the Preliminary Apportionment were enrolled but did not reside.
 - (2) In the subsequent enrollment reporting year after verification of Occupancy of a project, increased by the number of pupils equal to the reduction due to Section 1859.51(p)(1), for the project which was occupied.
 - (3) Increased by the number of pupils equal to the reduction due to Section 1859.51(p)(1), for a Preliminary Apportionment rescinded pursuant to the provisions of Section 1859.148.
- (q) Adjusted by the difference between the Alternative Enrollment Projection for the current enrollment reporting year and the projected enrollment determined pursuant to Section 1859.42 for the current enrollment reporting year, or by the eligibility remaining from this calculation that can no longer be utilized if the funds made available pursuant to Education Code Section 17071.75(a)(1)(A) have been exhausted.
- (r) Adjusted pursuant to Education Code Sections 17071.75 (b)(2) and (f) by the number of pupils housed, based on the loading standards pursuant to Education Code Section 17071.25(a)(2)(A), in any classrooms where title was relinquished.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17052, 17070.51, 17071.25, 17071.75, 17071.76, 17072.20 and 17077.40, Education Code.

Article 11. Miscellaneous School Facility Program Requirements

Section 1859.106. Program Accountability Expenditure Audit.

The projects will be audited to assure that the expenditures incurred by the district were made in accordance with the provisions of Education Code Section 17072.35 for new construction projects, Section 1859.120 for Joint-Use Projects, Section 1859.140 for Critically Overcrowded School projects, Section 1859.160 for Charter School projects, and Education Code Section 17074.25 and Section 1859.79.2 for modernization projects. The audit will also assure that the district complied with all site acquisition guidelines as provided in Education Code Sections 17072.13 and 17072.14 and Sections 1859.74, 1859.74.1, 1859.74.2, 1859.74.3, 1859.74.4, 1859.75 and 1859.75.1.

An adjustment in the SFP grant will be made for the following:

- (a) The difference in the value of the site, relocation costs, DTSC fees, and hazardous waste/materials removal costs that were used to determine the New Construction Additional Grant and the actual amount paid by the district for the site, relocation costs, DTSC fees, and hazardous waste/materials removal costs. For applications received on or after January 1, 2004, the adjustment may be made regardless of whether the hazardous waste/materials removal costs were requested on the application for funding.
- (b) For 50 percent of any insurance proceeds collectable by the district for displaced facilities and 50 percent of the net proceeds available from the disposition of displaced facilities pursuant to Section 1859.82(a) or (b).

When the OPSC receives the final expenditure report from the district on Form SAB 50-06, an audit of the expenditures by the OPSC shall commence within two years of the report. If the district is not notified by the OPSC within the two-year period that an audit will be made, there will be no audit of the project by the OPSC and the expenditures reported by the district shall be deemed appropriate. If the district has been notified that an audit of the expenditures will be made by the OPSC, the OPSC shall complete the audit within six months of the notification, unless additional information requested from the district has not been received.

Districts shall be required to maintain all appropriate records that support all district certifications and expenditures for all costs associated with SFP, Charter School, and Joint-Use projects for a period of not less than four years from the date the notice of completion is filed for the project in order to allow other agencies, including, without limitation, the Bureau of State Audits and the State Controller to perform their audit responsibilities.

The district is responsible to substantiate expenditures from the Joint-Use Partner(s) financial contribution pursuant to Section 1859.127 and from other local sources.

Should the OPSC conduct an audit of the district certifications or the expenditures for the project and make a finding that some or all of the expenditures were not made in accordance with the provisions of Education Code Section 17072.35 for new construction projects, Section 1859.120 for Joint-Use Projects, Section 1859.140 for Critically Overcrowded School projects, Section 1859.160 for Charter School projects, Education Code Section 17074.25 and Section 1859.79.2 for modernization projects, and Education Code Sections 17072.13 and 17072.14 for projects with additional costs imposed by the DTSC, the OPSC shall recommend to the Board that the apportionment be adjusted based on the audit findings.

Should the CDE make a finding that a project did not meet the standards that were adopted by the CDE pursuant to Education Code Section 17251 (b) and (c) when the district had self-certified that the project met those standards pursuant to Education Code Section 17070.50 (b), the Board may request that the CDE make a recommendation that the apportionment for the project be adjusted based on the CDE finding. Any adjustment in the apportionment shall be based on the percentage of space in the project that the CDE determined did not meet those standards.

If a special education program is transferred between a school district and a county office of education pursuant to Education Code Sections 17071.75 (b) (2) and (f), the receiving district shall remit payment to the State within 60 days or up to five years, as needed. If a repayment schedule is requested, it shall be in equal annual installments and shall include interest at the same rate as that earned on the State's Pooled Money Investment Account on the date a repayment schedule is approved by the Board. The payment amount shall be determined by prorating the Financial Hardship assistance received on the initial Apportionment for the transferred facilities, including site acquisition costs apportioned for any land transferred, by the percentage of building area being transferred divided by the total amount of building area approved on the initial Application containing the transferred facilities, if all of the following conditions are met:

- (a) The transferred facilities were constructed with State funds under Chapter 12.5.
- (b) Occupancy of the transferred facilities took place within ten years prior to the transfer.
- (c) The School District that initially acquired or constructed the transferred facilities had received Financial Hardship assistance in its Apportionment of the project.
- (d) The School District receiving the facility did not have approved Financial Hardship status at the time of the transfer.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35, 17070.50, 17071.75, 17072.13, 17072.14, 17072.18, 17072.35, 17074.25, 17076.10, 17077.40, 17078.52 and 17251, Education Code.

**ENROLLMENT CERTIFICATION/PROJECTION
SCHOOL FACILITY PROGRAM**

SAB 50-01 (REV 02/07/03/05)

GENERAL INFORMATION

To determine a district's initial eligibility for new construction funding under the School Facility Program, the district must provide enrollment information for the current and previous three years on this form. After the initial submittal, this form need only be resubmitted when the district requests additional new construction funding in a new enrollment year, **or** as a result of a reorganization election that affects either the district's enrollment or existing school building capacity, or as a result of a special education program transfer.

The following documentation must be submitted with this form (as appropriate):

- Specific enrollment data for district's with current enrollment that is less than 300 if the district is requesting an enrollment projection based on five-year average enrollment data (refer to Part A).
- A copy of the study supporting student yield factors if the district is requesting an augmentation of its enrollment projection due to pupils residing in new dwelling units and it is not using the State yield factors (refer to Part F).
- A copy of the governing board approved attendance map and enrollment distribution worksheet for every HSAA, if the district is currently, or anticipates

for the future, reporting residency data (refer to Part A). By signing this form, the district certifies that the pupil enrollment and residency data used to support the submitted map and worksheet is available at the district for Office of Public School Construction (OPSC) verification.

A high school district, unified school district, or county superintendent of schools may file on a high school attendance area (HSAA) basis or Super HSAs as provided under Education Code Section 17071.76 and Section 1859.41. In that case, the enrollment used on this form is the current and three previous years enrollment in the HSAA or Super HSAA.

To determine the new construction eligibility for a district filing on a HSAA basis, and seeking COS project justification pursuant to SFP Regulation Section 1859.147(e)(2), one Form SAB 50-01 based on enrollment as reported to CDE and one based on the residence of the pupils must be filed for each HSAA which includes a Preliminary Apportionment for a 2002 COS project.

This form is not used for modernization funding applications.

SPECIFIC INSTRUCTIONS**Part A. Enrollment/Residency Data**

Check the appropriate box to indicate whether the district is reporting enrollment data or residency data.

Enrollment Data (To be completed by school districts or the county superintendent of schools.)

The information needed to complete this form is based on the latest California Basic Education Data Systems (CBEDS) that is available approximately October 15th of each year. Applications filed on or after November 1st must include the current school year enrollment. Report the current year and the three prior years K-12 enrollment. High school districts report the unduplicated enrollment data for grades served by the district and all feeder elementary school grades for the current year and the previous three years.

As an option, school districts with less than 300 current enrollment may report the previous five year average for any grade level for any year when the enrollment for that grade level has decreased by more than 50 percent from the previous year. If this option is used, the district must identify each grade level where this option is used on Form SAB 50-01 and attach the appropriate enrollment documentation to support this request.

County superintendents report the enrollment for community school students as reported in April prior to the latest CBEDS report.

The enrollment data must include all off-track and on-track students attending multi-track year round schools, students living outside the district's boundaries but attending schools in the district, students receiving Classroom-Based Instruction in Charter Schools located within the district boundaries and are enrolled in the same grade levels or type served by the district regardless if the district chartered the school, students attending magnet schools, community school students, and students attending independent study.

Do not include students living in the district's boundaries but attending other districts, students attending regional occupational programs, students attending preschool programs, other students not generally considered K-12 students including

adult education students, students receiving Classroom-Based Instruction in Charter Schools located within the district boundaries but are enrolled in grade levels or type not served by the district, students living inside district boundaries but are receiving Classroom-Based Instruction in Charter Schools located outside the district boundaries, students receiving Nonclassroom-Based Instruction, juvenile court/court school students, special day class pupils, or continuation high school pupils.

Residency Data (To be completed by a COS HSAA district, filing pursuant to Section 1859.147(e)(2).)

The information used to complete this form is based on the latest enrollment as reported on the CBEDS that is available October of each year, and pupil residency within the HSAA boundaries. Report the current year and the three prior years' K-12 pupils that are both enrolled and reside within the HSAA boundaries. For HSAA district filing pursuant to Section 1859.147(e)(2)(A) only the current years' K-12 pupils must be reported.

Do not include students living outside the district's boundaries but attending school in the district, students living in the district's boundaries but attending other districts, students attending regional occupational programs, students attending preschool programs, other students not generally considered K-12 students including adult education, students receiving Classroom-Based Instruction in Charter Schools located within the district boundaries but are enrolled in grade levels or type not served by the district, students living inside district boundaries but are receiving Classroom-Based Instruction in Charter Schools located outside the district boundaries, students receiving Nonclassroom-Based Instruction, juvenile court/court school students, special day class pupils or continuation high school pupils.

Part B. Pupils Attending Schools Chartered by Another District

Of the data reported in Part A of this form, indicate the aggregate pupil enrollment attending schools chartered by another district which are located within your district boundaries for the current year and the three prior years. If the district is reporting pupils attending schools chartered by another district for the current year, then the district must submit a separate letter with the following information:

**ENROLLMENT CERTIFICATION/PROJECTION
SCHOOL FACILITY PROGRAM**

SAB 50-01 (REV 02/07/03/05)

- The total Charter School enrollment listed by each of the K–12 grade levels reported for the current year.
- A list of the other school district(s) that chartered school(s) within your boundaries. Include the Charter School name(s) and total school enrollment.

For the previous years, report the total enrollment for pupils attending schools chartered by another district, if known. If the information is not available, enter N/A. In this case, the OPSC will adjust the previous years' enrollment data based on a prorated basis of the rate of growth or decline of the previous years' enrollment.

Enter 0 if there are no pupils attending schools chartered by another district within your district boundaries for the current or previous years.

Part C. Continuation High School (To be completed by school districts only.)

Report the continuation high school enrollment for the current year and the three previous years. For purposes of projecting the enrollment, these pupils will be added to the enrollment data in Part A.

Part D. Special Day Class Pupils (To be completed by school districts or the county superintendent of schools.)

Report the pupils three to twenty-two years old enrolled or residing, as appropriate, within the district boundary, attending the special day classes as shown and reported within the California Special Education Management Information System to the California Department of Education in December prior to the latest CBEDS report. Use pupil descriptions as provided in Section 1859.2 for Non-Severely Disabled Individual with Exceptional Needs and Severely Disabled Individual with Exceptional Needs.

Part E. Special Day Class Enrollment (To be completed by county superintendent of schools only.)

Report the total of special day class pupils in all categories for the three previous years, adjusted by the total pupils lost or gained due to a transfer of a Special Education Local Plan Area (SELPA) for each year.

Upon transfer of any SELPA facilities, the school districts are required to submit a letter to the OPSC, signed by each school district involved, including the following:

- grant deed or other legal documentation indicating the facilities have been transferred,
- name of school,
- building square footage being transferred,
- the occupancy date of the facility,
- date of transfer,
- acknowledgement that the grantee may owe the States funds,
- financial hardship status of each school district at time of initial application and at time of transfer,
- OPSC application number(s) of Application for Funding (Form SAB 50-04), and
- acknowledgment that the certifications made, as applicable, by the grantor on the Application for Funding (Form SAB 50-04) will be assumed by the grantee,
- request for a payment plan, if needed.

Part F. New Dwelling Units (To be completed by school districts only.)

The district may augment the enrollment projection based on the number of pupils that are anticipated as a result of proposed dwelling units included in approved and valid tentative or final subdivision maps.

The district must provide all of the following:

- The approval dates of the maps by the local planning commission or approval authority; and,
- The number of dwelling units to be built within each subdivision excluding all dwelling units that have either 1) been occupied; or, 2) had construction permits pulled that are twelve months or older from the date the permit was pulled. (Note: A district must select only one option—the Date of Occupancy or permits pulled, plus twelve months—as the point in time to stop reporting dwelling units for all tracts being submitted. A district may select the alternate option the following submittal year if desired.); and,
- One of the following:
 1. An approved and valid tentative or final subdivision map with the local planning commission or approval authority stamp located on the map, or
 2. An approved and valid tentative or final subdivision map with supporting documentation, or
 3. A spreadsheet or the OPSC dwelling unit worksheet listing all of the subdivisions reported on the Form SAB 50-01 with supporting documentation. If the district wishes to utilize this option, please note that when the district representative signs the Form SAB 50-01, he/she is certifying that the tract maps are on file at the district office and available for OPSC review if requested.

Supporting documentation is defined as one of the following:

- Local planning commission or approval authority meeting minutes detailing the approval of the map. If the approval was given an extension, please provide the most current meeting minutes indicating the approval of the extension request. Dwelling units contained in expired maps may not be reported on the Form SAB 50-01, or
- A letter from the local planning commission or approval authority indicating that the tract map is approved and valid as of the signature date of the Form SAB 50-01, or
- Any other reasonable documentation from the local planning commission or approval authority that indicates the tract map is approved and currently valid.

Report the determined number of dwelling units in Part F.

Part G. Yield Factor (To be completed by school districts only.)

Report the district's student yield factors as defined in Section 1859.2, if different than the statewide average student yield factor. The statewide average student yield factors are as follows:

- Elementary School District..... 0.5 students per dwelling unit
- High School District..... 0.2 students per dwelling unit
- Unified School District..... 0.7 students per dwelling unit

Should the district wish to use its own student yield factors, a copy of the district's study that justifies the student yield factors must be submitted with this form.

Part H. Five Year Projected Enrollment/Residency (Used for the School Facility Program. To be completed by the OPSC.)**Part I. One Year Projected Enrollment (Used for the State Relocatable Program. To be completed by the OPSC. Do not manually complete Parts H or I.)**

Complete this form manually, sign, date, and submit to the OPSC for computations. A completed copy of this form with the enrollment projections will be returned to the district.

The methodology for calculating the district's projected enrollment is outlined in Sections 1859.42 and 1859.43.

ENROLLMENT CERTIFICATION/PROJECTION
SCHOOL FACILITY PROGRAM

SAB 50-01 (REV 02/07/03/05)

SCHOOL DISTRICT	FIVE DIGIT DISTRICT CODE NUMBER (SEE CALIFORNIA PUBLIC SCHOOL DIRECTORY)
COUNTY	HIGH SCHOOL ATTENDANCE AREA (HSAA) OR SUPER HSAA (IF APPLICABLE)

Part A. Enrollment Data Residency Data—COS HSAA Districts Only

Grade	3rd Previous	2nd Previous	Previous	Current
	/	/	/	/
K				
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
Total				

Part B. Pupils Attending Schools Chartered by Another District

3rd Previous	2nd Previous	Previous	Current

Part C. Continuation High School—(Districts Only)

Grade	3rd Previous	2nd Previous	Previous	Current
	/	/	/	/
9				
10				
11				
12				

Part D. Special Day Class Pupils—(Districts or County Superintendent of Schools)

	Elementary		Secondary			Elementary		Secondary	
	NON-SEVERE	SEVERE	NON-SEVERE	SEVERE		NON-SEVERE	SEVERE	NON-SEVERE	SEVERE
MR					OI				
HH					OHI				
DEAF					SLD				
HI					DB				
SLI					MH				
VI					AUT				
SED					TBI				
TOTAL									

I certify, as the District Representative, that the information reported on this form is true and correct and that:

- I am designated as an authorized district representative by the governing board of the district.
- If the district is requesting an augmentation in the enrollment projection pursuant to Section 1859.42 (b), the local planning commission or approval authority has approved

Part E. Special Day Class Enrollment—(County Superintendent of Schools Only)

3rd Previous	2nd Previous	Previous

Part F. Number of New Dwelling Units

Part G. District Student Yield Factor

Part H. Five Year Projected Enrollment/Residency—School Facility Program Projections (Except Special Day Class Pupils Only)

K-6	7-8	9-12	Total

Projections—Special Day Class Pupils Only

	Elementary		Secondary			Elementary		Secondary	
	NON-SEVERE	SEVERE	NON-SEVERE	SEVERE		NON-SEVERE	SEVERE	NON-SEVERE	SEVERE
MR					OI				
HH					OHI				
DEAF					SLD				
HI					DB				
SLI					MH				
VI					AUT				
SED					TBI				
TOTAL									

Part I. One Year Projected Enrollment—State Relocatable Program Projections (Except Special Day Class Pupils Only)

K-6	7-8	9-12	Total

Projections—Special Day Class Pupils Only

	Elementary		Secondary			Elementary		Secondary	
	NON-SEVERE	SEVERE	NON-SEVERE	SEVERE		NON-SEVERE	SEVERE	NON-SEVERE	SEVERE
MR					OI				
HH					OHI				
DEAF					SLD				
HI					DB				
SLI					MH				
VI					AUT				
SED					TBI				
TOTAL									

the tentative subdivision map used for augmentation of the enrollment and the district has identified dwelling units in that map to be contracted. All subdivision maps used for augmentation of enrollment are available at the district for review by the OPSC.

- This form is an exact duplicate (verbatim) of the form provided by Office of Public School Construction. In the event a conflict should exist, then the language in the OPSC form will prevail.

SIGNATURE OF DISTRICT REPRESENTATIVE	DATE
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STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE MEETING
MARCH 2, 2007

SITE SALE PROCEEDS

PURPOSE

To discuss the implementation of regulations as a result of the passage of Senate Bill (SB) 1415 (Chapter 810, Statutes of 2006—Scott).

BACKGROUND

Education Code Section 17462, requires school districts to use the funds derived from the sale of surplus property for Capital Outlay purposes or maintenance of school district property. However, the proceeds from such sale may be deposited in the General Fund of a school district for any General Fund purpose if the school district governing board and the State Allocation Board (SAB) determine that the district has no anticipated need for additional sites or building construction for the five-year period following the sale or lease, and the district has no major deferred maintenance needs. After the SAB determination and General Fund deposit, the school district may not apply for school funding for five years.

SB 1415 (see Attachment A for bill text) modifies Education Code Section 17462 to extend the ineligible period to file applications for school funding, following the sale or lease of surplus property, from five years to ten years with regards to the district's anticipated need for additional sites, building construction, and major deferred maintenance requirements. It also limits the authority of a school district to use proceeds from the sale of surplus property for any General Fund purpose. It establishes the following requirements for the use of proceeds from the sale or lease with the option to purchase of school district property:

- Provides that the Site Sale proceeds be used for "One-time Expenditures."
- Prohibits the use of Site Sale proceeds for "Ongoing Expenditures."

SB 1415 also requires the SAB, in consultation with the California Department of Education, to adopt regulations that define "On-going Expenditures" for purposes of Education Code Section 17462(a).

RECOMMENDATION

Present the regulations (Attachment B) to the next available SAB meeting for approval.

ATTACHMENT A

Senate Bill No. 1415

CHAPTER 810

An act to amend Section 17462 of the Education Code, relating to school property.

[Approved by Governor September 30, 2006. Filed with
Secretary of State September 30, 2006.]

legislative counsel's digest

SB 1415, Scott. Surplus school property: use of proceeds.

1 Existing law allows the governing board of any school district to sell
2 any real property belonging to the district or to lease for a term not
3 exceeding 99 years, any real property, together with any personal property
4 located thereon, belonging to the district, subject to specified requirements
5 and limitations. Existing law requires a school district to use the funds
6 derived from the sale of surplus property for capital outlay or for costs of
7 maintenance of school district property that the governing board of the
8 school district determines will not recur within a 5-year period. Existing
9 law allows a school district to deposit the proceeds from the sale or lease
10 with an option to purchase of school district property in the general fund of
11 the district for any general fund purpose if the school district governing
12 board and the State Allocation Board have determined that the district has
13 no anticipated need for additional sites or building construction for the
14 5-year period following the sale or lease, and the district has no major
15 deferred maintenance requirements.

16 This bill would delete the authority of a school district to use those
17 proceeds for any general fund purpose. The bill would increase from 5 to
18 10 years the time period following the sale or lease with option to purchase
19 for which the school district governing board and the State Allocation
20 Board are required to determine that the district has no anticipated need for
21 additional sites or building construction. The bill would require that the
22 proceeds from the sale or lease with option to purchase of school district
23 property be used for one-time expenditures. The bill would prohibit a
24 school district from using those proceeds for ongoing expenditures
25 including, but not limited to, salaries and other operational expenses. The
26 bill would require the State Allocation Board, in consultation with the
27 State Department of Education, to adopt regulations that govern the use of
28 those proceeds for one-time expenditures and define ongoing expenditures
29 for purposes of that prohibition. The bill would also delete obsolete
30 provisions.

31
32 *The people of the State of California do enact as follows:*

33 SECTION 1. Section 17462 of the Education Code is amended to read:
34 17462. (a) The funds derived from the sale of surplus property shall be
35 used for capital outlay or for costs of maintenance of school district
36 property that the governing board of the school district determines will not
37 recur within a five-year period. Proceeds from a lease of school district
38 property with an option to purchase may be deposited into a restricted fund
39 for the routine repair of district facilities, as defined by the State

ATTACHMENT A

40 Allocation Board, for up to a five-year period. In addition, the proceeds
41 from the sale or lease with option to purchase may be deposited in the
42 general fund of the district if the school district governing board and the
43 State Allocation Board have determined that the district has no anticipated
44 need for additional sites or building construction for the ten-year period
45 following the sale or lease with option to purchase, and the district has no
46 major deferred maintenance requirements. Proceeds from the sale or lease
47 with option to purchase of school district property shall be used for
48 one-time expenditures, and may not be used for ongoing expenditures
49 including, but not limited to, salaries and other general operating expenses.

50 (b) The proceeds may also be deposited into a special reserve fund for
51 capital outlay, for costs of maintenance of school district property that the
52 governing board determines will not recur within a five-year period, or for
53 the future maintenance and renovation of schoolsites if the district
54 governing board and the State Allocation Board have determined that the
55 district has no anticipated need for schoolsites or building construction or
56 major deferred maintenance projects for a ten-year period following the
57 sale or lease with option to purchase. Proceeds deposited in the special
58 reserve fund shall not be available for general operating expenses as
59 provided in Section 42842.

60 (c) The State Allocation Board, in consultation with the department,
61 shall adopt regulations that govern the use of proceeds pursuant to this
62 section for one-time expenditures and define ongoing expenditures for
63 purposes of subdivision (a).

64 (d) Notwithstanding a determination by the State Allocation Board
65 pursuant to subdivision (a) that a school district has no anticipated need for
66 additional sites or building construction for the ten-year period following
67 the sale or lease with option to purchase of surplus school property, the
68 district may apply for new construction or modernization funding pursuant
69 to this chapter if both of the following conditions are satisfied:

70 (1) Five years have elapsed since the date upon which the sale or lease
71 with option to purchase was executed.

72 (2) The State Allocation Board determines that the district has
73 demonstrated enrollment growth or a need for additional sites or building
74 construction that the district could not have easily anticipated at the time
75 the board made its original determination that the district had no anticipated
76 need for the ten-year period following the sale or lease with
77 option to purchase.

ATTACHMENT B

Title 2: Administration

Division 2: Financial Operations

Chapter 3: Department of General Services

Subchapter 4: Office of Public School Construction

Group 1: State Allocation Board

Subgroup 3.5. Regulations Relating to Surplus School Property; Use of Proceeds

Section 1700. Definitions.

For the purpose of the provisions of Education Code Section 17462, the term set forth below shall have the following meaning, subject to the provisions of the Act:

"One-time Expenditures" shall have the same meaning as set forth in Education Code Section 17463.8(f). "Ongoing Expenditures" means any costs required to support the daily operational and maintenance needs of a school as defined in the California School Accounting Manual and referred to in Education Code Section 17463.8(f).

Note: Authority cited: Section 17462, Education Code.

Reference: Section 17462 and 17463.8, Education Code.

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE MEETING
March 2, 2007

EMERGENCY REPAIR PROGRAM FUNDING FOR ADMINISTRATIVE FEES

PURPOSE

To discuss proposed regulatory amendments that set the level of eligible administrative and application filing fees for projects seeking funding under the provisions of the Emergency Repair Program (ERP).

BACKGROUND

On January 24, 2007 the State Allocation Board (SAB) adopted changes to the ERP required by the passage of Assembly Bill 607, Chapter 704, Statutes of 2006 (Goldberg). In addition, the Board approved several changes aimed at improving the Program and streamlining the application submittal and funding processes. However, the Board did not approve the proposal to deny ERP funding for administrative and application filing fees in response to concerns raised at the meeting. The SAB directed the Office of Public School Construction (OPSC) to examine the issue further and present a resolution at a future Board meeting.

AUTHORITY

Education Code Section 17592.72 directs the SAB to provide emergency repair grants to eligible schools to cover the costs of school district repair projects that meet the specified criteria.

DISCUSSION

The initial Regulations governing the administration of the ERP were approved by the SAB on January 26, 2005 and did not set limits on cost categories for eligible projects. However, in the months following the implementation, there was a number of ERP applications submitted to the OPSC that included disproportionate funding requests for application filing fees. These costs typically represent fees paid to consulting firms for identifying eligible projects, completing application forms and assembling the necessary supporting documentation.

Because the law directs the SAB to provide funding for costs of repair projects, the OPSC believes that funding application filing fees could be considered unwarranted as they represent fees for seeking State funding rather than completing necessary repairs. At the same time, the lack of resources, staff time and expertise in navigating the State system is a common concern of school districts, of which the Board is aware. Although the newly adopted SAB Forms and program revisions have been simplified and streamlined, some school districts may still need to retain consultants to aid them in seeking ERP funding.

The OPSC proposes to limit the amount of funding provided for administrative fees. The limit would apply to application filing fees only and would not apply to other expenses such as preparation of cost estimates and cost benefit analyses for ERP projects. The OPSC proposes to provide funding for application filing fees equal to two percent of the eligible project costs or \$5,000, whichever is less. This will provide school districts with the ability to hire consultants to perform application filing services when school districts lack staff and resources for these tasks. On the other hand, this proposal will ensure that ERP funds are not used to fund excessive and unreasonable costs related to application submittals.

RECOMMENDATION

Present proposed regulations, as contained in the Attachment, at the next available SAB meeting for adoption.

ATTACHMENT
PROPOSED AMENDMENTS TO THE
EMERGENCY REPAIR PROGRAM REGULATIONS
State Allocation Board
Implementation Committee Meeting, March 2, 2007

Amend Regulation Section 1859.323.2 as follows:

Section 1859.323.2. Ineligible Expenditures.

An Emergency Repair Program Grant may not be used for any of the following:

- (a) New square footage, components, or building systems that did not previously exist.
- (b) Nonessential Repairs.
- (c) Cosmetic Repairs.
- (d) Land acquisition.
- (e) Furniture and equipment.
- (f) Salaries of LEA employees except when permitted pursuant to Public Contract Code Section 20114.
- (g) Costs covered under warranty or by insurance.
- (h) Costs normally borne by others including, but not limited to, public utility companies.
- (i) Costs to repair or replace facilities with structural damage if the project meets the facility hardship or rehabilitation criteria set forth in School Facility Program Regulation Sections 1859.82 and 1859.83(e).
- (j) Administrative and application filing fees that exceed two percent of the total project cost or \$5,000, whichever is less. The total project cost shall be calculated by adding all other eligible costs and re-calculated upon the grant adjustment determination pursuant to Section 1859.324.1.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.72, Education Code.