

STATE ALLOCATION BOARD  
IMPLEMENTATION COMMITTEE

Pending Items List  
September 7, 2007

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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.*

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  
September 7, 2007

SEISMIC MITIGATION CRITERIA

PURPOSE OF REPORT

To discuss eligible project costs for the seismic provision of Proposition 1D, and to present proposed regulations.

BACKGROUND

Proposed regulations were presented to the State Allocation Board at the August 2007 meeting. The Board did not approve the regulations and requested that Staff return to the Implementation Committee to discuss several issues. Specifically, the Board requested Staff to consider having the ancillary costs, which can double the total project cost, funded out of the respective new construction or modernization fund. In addition, the Board requested Staff to look at interim housing costs being funded out of the \$199.5 million that is available for seismic mitigation. Lastly, the Board requested a legal opinion on whether or not reimbursable projects would qualify for funding.

DISCUSSION

Staff has provided proposed regulations on the attachment, indicating that ancillary costs will be borne out of the respective new construction and modernization funds. This proposal will require the threshold of a building location where the horizontal acceleration response is 1.55 g or more to be reduced so that additional buildings will qualify. Staff anticipates presenting two options to the State Allocation Board for consideration: Option A is the Regulations presented today and Option B will be the item that was presented to the SAB at the August meeting.

The Board directed Staff to consider interim housing costs for seismic mitigation funding. Currently under the School Facility Program (SFP), a separate allowance for interim housing is not provided for in the grant; however, a new construction grant for an addition, modernization, or facility hardship grant can be used for interim housing. In addition, under the SFP, financial hardship districts that have expended funds on interim housing may not have those funds identified as district contribution on future projects. To be consistent with the SFP, Staff does not recommend that an additional allowance for interim housing be provided.

The Board further directed Staff to determine if projects could be reimbursed if the building was mitigated prior to the effective date of the law. Staff has discussed this with the SAB Legal Counsel, and the SAB Legal Counsel has determined that the law cannot be retroactive unless specified in the law, which it is not. Therefore, Staff's recommendation is that projects that have construction contracts signed after May 20, 2006 be considered for funding.

RECOMMENDATION

Accept the proposed regulations and proceed with the proposed regulations to the August State Allocation Board meeting.

# ATTACHMENT

## STATE ALLOCATION BOARD IMPLEMENTATION COMMITTEE MEETING September 7, 2007

### SEISMIC MITIGATION

#### Section 1859.2 Definitions

"Most Vulnerable Category 2 Buildings," as defined by the DSA, means the building is located where the short period spectral acceleration is 1.55 g or more based on the 2002 United States Geological Survey National Seismic Hazard Maps adjusted for site class factors; the building is designed for occupancy by students and staff; the building type is either C1 – Concrete Moment Frame, PC1A – Precast/Tilt-up Concrete Shear Wall with Flexible Roof, PC2 – Precast Concrete Frame and Roofs with Concrete Shear Walls, or URM – Unreinforced Masonry Bearing Wall Buildings; and a structural report is provided by a structural engineer that demonstrates the lateral force-resisting system of the building does not meet collapse prevention performance objectives and the specific deficiencies and reasoning for concluding that the building has a high potential for catastrophic collapse.

#### Section 1859.82. Facility Hardship.

A district is eligible for facility hardship funding to replace or construct new classrooms and related facilities if the district demonstrates there is an unmet need for pupil housing or the condition of the facilities, or the lack of facilities, is a threat to the health and safety of the pupils. A facility hardship is available for:

- (a) New classrooms and/or subsidiary facilities (corridors, toilets, kitchens and other non-classroom space) or replacement facilities if either (1) or (2) are met:
  - (1) The facilities are needed to ensure the health and safety of the pupils if the district can demonstrate to the satisfaction of the Board that the health and safety of the pupils is at risk. Factors to be considered by the Board shall include the close proximity to a major freeway, airport, electrical facility, high power transmission lines, dam, pipeline, industrial facility, adverse air quality emission or other health and safety risks, including structural deficiencies required by the DSA to be repaired, seismic mitigation of the Most Vulnerable Category 2 Buildings as verified by the DSA, traffic safety or because the pupils reside in remote areas of the district and transportation to existing facilities is not possible or poses a health and safety risk. The total available funding for seismic mitigation costs for the Most Vulnerable Category 2 Buildings is \$199.5 million for projects where the construction contract was executed on or after May 20, 2006, and the project funding provided shall be for the minimum work necessary to obtain DSA approval. All ancillary costs for seismic replacement shall be funded out of the new construction fund.

- (A) If the request is for replacement facilities, a cost/benefit analysis must be prepared by the district and submitted to the OPSC that indicates the total costs to remain in the classroom or related facility and mitigate the problem is at least 50 percent of the Current Replacement Cost of the classroom or related facility. The cost/benefit analysis may include applicable site development costs as outlined in Section 1859.76. If the cost to remain in the classroom or related facility is less than 50 percent of the Current Replacement Cost, the district may qualify for a Modernization Excessive Cost Hardship Grant for rehabilitation costs pursuant to Section 1859.83(e) or a grant not to exceed 50 percent of the cost estimate that has been reviewed and approved by the OPSC and approved by the board for seismic rehabilitation. All ancillary costs for seismic rehabilitation shall be funded out of the modernization fund.

If the request is for replacement facilities that included structural ~~deficiencies and/or seismic~~ deficiencies, the cost/benefit analysis must also include a report from a licensed design professional identifying the minimum work necessary to obtain ~~Division of the State Architect~~ DSA approval. The report must contain a detailed cost estimate of the repairs. The report and cost estimate shall be

subject to review by the OPSC for conformance with the Saylor Current Construction Cost Publication and, at the OPSC's discretion, the ~~Division of the State Architect DSA~~. For seismic deficiencies of the Most Vulnerable Category 2 Buildings, the report and the cost estimate for the minimum work necessary must be reviewed by the DSA.

- (2) The classroom or related facility was lost or destroyed as a result of a disaster such as fire, flood or earthquake and the district has demonstrated satisfactorily to the Board that the classroom or related facility was uninsurable or the cost for insurance was prohibitive.

If the district qualifies for a new or replacement school pursuant to either (1) or (2) above, the district is eligible for a New Construction Grant as a new construction project for the lesser of the pupils housed in the replaced facility based on loading standards pursuant to Education Code Section 17071.25(a)(2) or the latest CBEDS enrollment at the site.

If the district qualifies for replacement facilities on the same site pursuant to either (1) or (2) above, the district is eligible for funding as a new construction project. Replacement facilities shall be allowed in accordance with the square footage amounts provided in the chart in Section (b) below. If the facility eligible for replacement is not shown in the chart in Section (b) below, the replacement facility shall be limited to the square footage replaced. The grant amount provided shall be \$173.30 per square foot for Toilet Facilities and \$96.30 per square foot for all other facilities. Additional funding may be provided for applicable site development costs pursuant to Section 1859.76, New Construction Excessive Cost Hardship Grant(s) pursuant to Section 1859.83(a), (b) or (d), therapy room pursuant to Section 1859.72, multilevel construction pursuant to Section 1859.73 and project assistance pursuant to Section 1859.73.1. The amounts shown will be adjusted in the manner prescribed in Section 1859.71. The district may be eligible for the funding provided to initiate and enforce a LCP as prescribed in Section 1859.71.4.

Any grants provided pursuant to either (1) or (2) above will be reduced for any space deemed available by the Board in the district, the HSAA or Super HSAA that could be used to house some or all of the displaced pupils, fifty percent of any insurance proceeds collectable by the district for the displaced facilities and fifty percent of the net proceeds available from the disposition of any displaced facilities.

- (b) A multi-purpose room, toilet, gymnasium, school administration or library/media center, facility that meets all the following:
  - (1) The facility was lost or destroyed as a result of a disaster, including but not limited to fire, flood or earthquake.
  - (2) The facility is no longer useable for school purposes as recommended by the California Department of Education and approved by the Board.
  - (3) The district has demonstrated satisfactorily to the Board that the facility was uninsurable or the cost of insurance was prohibitive.

If the district qualifies, the district is eligible for funding as a new construction project. The funding amount provided shall be \$96.30 per square foot for library/media center, school administration, gymnasium and multi-purpose facilities, and/or \$173.30 per square foot for Toilet Facilities. A New Construction Additional Grant may be provided for applicable site development costs pursuant to Section 1859.76, New Construction Excessive Cost Hardship Grant(s) pursuant to Section 1859.83(a) and (d), therapy room pursuant to Section 1859.72, multilevel construction pursuant to Section 1859.73 and project assistance pursuant to Section 1859.73.1. The amounts shown will be adjusted in the manner prescribed in Section 1859.71. The district may be eligible for the funding provided to initiate and enforce a LCP as prescribed in Section 1859.71.4.

Any grants provided pursuant to (b) above, shall be reduced by fifty percent of any insurance proceeds collectable by the district for the displaced facilities and fifty percent of the net proceeds available from the disposition of any displaced facilities.

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

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

Any facilities eligible for facility hardship not shown in the above chart or for Alternative Education facilities not shown in the table in Section 1859.77.3(a)(5) shall be eligible for replacement square footage equal to the facilities replaced. For an Alternative Education school eligible for a facility hardship, utilize the square footage provided in Section 1859.77.3(a)(5), with the exception of toilet and administration where the chart above shall be utilized.

A district may request a determination of eligibility for facility hardship funding in advance of project funding.

(c) A district seeking replaced facilities as a result of either (a) or (b) above must submit Form SAB 50-04 for the replaced facilities:

- (1) Within 18 months if the replacement facilities will be located on the same site.
- (2) Within 24 months if the replacement facilities will be located on a replacement site.

If an Approved Application for the replaced facility is not accepted within the time periods identified in (c)(1) or (c)(2) above, the Board shall re-review the criteria submitted by the district for replacement of the facility prior to apportionment of the replaced facility.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.

Reference: Sections 17074.56, 17075.10, 17075.15, and 101012(a)(1) Education Code.

Amend Regulation Section 1859.61 as follows:

Section 1859.61. Adjustments to the Modernization Baseline Eligibility.

The baseline eligibility for modernization as provided in Section 1859.60 for a specific site will be adjusted as follows:

- (a) Reduced by the number of pupils provided grants in a modernization SFP project at the specific site.
- (b) Reduced by the number of pupils housed, based on the loading standards pursuant to Education Code Section 17071.25(a)(2), in a modernization LPP project funded under the LPP pursuant to Sections 1859.14 and 1859.15.
- (c) Increased by changes in projected enrollment in subsequent enrollment reporting years.

- (d) Increased for additional facilities not previously modernized with State funds, that become 25 years old, if permanent, or 20 years old, if portable or as a result of audit findings made pursuant to Sections 1859.90 and 1859.105.
- (e) Adjusted as a result of errors or omissions by the district or by the OPSC.
- (f) Adjusted as a result of amendments to these Subgroup 5.5 Regulations that affect the eligibility.
- (g) For classroom loading standards adopted by the Board for non-severely disabled individuals with exceptional needs and severely disabled individuals with exceptional needs.
- (h) As directed by the Board due to a finding of a Material Inaccuracy pursuant to Regulation Section 1859.104.1.
- (i) Increased for facilities previously modernized with State funds, which qualify for an additional modernization apportionment pursuant to Section 1859.78.8.
- (j) Adjusted as a result of the Reconfiguration of an existing high school under the provisions of the Small High School Program.
- (k) Adjusted as a result of classrooms demolished and replaced pursuant to Regulation Section 1859.82.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.51, 17071.25, 17072.15, 17072.20, 17073.15, 17074.10 and 17074.32, Education Code.

STATE ALLOCATION BOARD  
IMPLEMENTATION COMMITTEE MEETING  
SEPTEMBER 7, 2007

ASSEMBLY BILL 127  
GRANT INCREASE - PROJECT INFORMATION WORKSHEET

PURPOSE OF REPORT

To report on current activities regarding the proposed Project Information Worksheet (Worksheet) that will be used to gather data for determining an annual adjustment to the School Facility Program new construction base grant pursuant to Education Code (EC) Section 17072.11 and bond accountability.

BACKGROUND

The Worksheet was presented at the August 2007 State Allocation Board (SAB) meeting and it was requested that the item be held over for another 30 days in order to conduct a "pilot test" of the Worksheet by field practitioners.

DISCUSSION

Staff has received valuable feedback from members of the Implementation Committee and several stakeholders and will make the changes necessary to clarify the Worksheet. In consultation with the California Department of Education, a key question is made prospective. Under the Additional Information section on page three the question: "Was any change in project scope discussed with the CDE, DSA and the OPSC?  Yes  No" is being changed to, "For projects with fund releases on or after November 1, 2007 was any change in project scope approved by the CDE  Yes  No, the DSA  Yes  No and the OPSC  Yes  No?"

The pilot test is in progress with the goal to be completed prior to the September SAB meeting. The piloting consists of sending the Worksheet out to various practitioners that have received an SFP new construction adjusted grant fund release for a new school project in either 2006 or 2007. The local practitioners of the selected school district projects are being asked to complete the Worksheet, and on the accompanying comment sheet, note any difficulties encountered, confusing items, how long it took to complete and other feedback related to the document. The subject projects will be distributed between elementary, middle, and high school projects for urban, suburban, rural areas within northern, central and southern geographical locations.

After the pilot test is complete and all responses have been assessed, Staff anticipates presenting the Worksheet for final consideration at the next State Allocation Board meeting.

STATE ALLOCATION BOARD  
IMPLEMENTATION COMMITTEE MEETING  
September 7, 2007

DEFERRED MAINTENANCE PROGRAM  
REGULATION AMENDMENTS

PURPOSE OF REPORT

To present proposed Deferred Maintenance Program (DMP) regulation changes.

BACKGROUND

1. A discrepancy was discovered in the language of Education Code (EC) Section 17582 and DMP Regulation Section 1866.4.3 regarding the source of funds from which districts could deposit their DMP matching share.
2. Due to the implementation of the Charter School Facilities Program (CSFP), language needs to be added to DMP Regulation Section 1866.13 and Form SAB 40-22 regarding the duplication of applications.

AUTHORITY

EC Section 17582 directs the Board to establish procedures and policies necessary for the administration of the DMP.

Article 12, Sections 17078.52 through 17078.66 of the EC establish and govern the CSFP within the School Facility Program (SFP).

STAFF COMMENTS

Minor changes to DMP Regulation Section 1866.4.3 are needed to clarify the source from which districts can use funds to deposit their DMP matching share. EC Section 17582 states that "Funds deposited in the district deferred maintenance fund may be received from any source whatsoever...". However, there are certain circumstances under other State Allocation Board (SAB) programs that limit the use of funds. For example, School Facility Program (SFP) Regulation Section 1859.103 restricts the use of the State's share of any savings on a modernization project to only be used on another modernization project. To address the need to accommodate the DMP regulation change in alignment with other program expenditure limitations, Staff recommends amending the DMP Regulation Section 1866.13 as shown on the attachment.

During the amendments to program regulations due to Assembly Bill 127, (Chapter 35, Statutes of 2006-Nunez and Perata), a minor amendment was overlooked. DMP Regulation Section 1866.13 addresses the circumstances when extreme hardship projects involve work from other programs. A reference to the CSFP was inadvertently omitted. To correct this oversight, Staff has amended the DMP Regulation Section 1866.13 and Form SAB 40-22.

RECOMMENDATION

Accept the proposed regulation and form changes on the following attachments to be presented to the State Allocation Board.

### Section 1866.4.3. District Deposit of Matching Share.

To receive the basic grant pursuant to Section 1866.4.2, districts are required to deposit a matching share into their District Deferred Maintenance Fund established pursuant to EC Section 17582(a). The State will match this amount dollar-for-dollar not to exceed the basic grant apportioned by the Board. The district's deposit must be a cash contribution from ~~any non-restricted fund~~, any source not otherwise prohibited by law or regulation, unmatched carryover pursuant to Section 1866.4.4, or from the district's restricted Ongoing and Major Maintenance Account.

If the district has established an Ongoing and Major Maintenance Account under the provisions of EC Section 17070.75(b)(1), any annual deposits in excess of 2 ½ percent into that fund may be used towards the district's matching share. Districts may either:

- (a) Report the excess amount in the Ongoing and Major Maintenance Account being used towards the match on the Form SAB 40-21. These funds are not available for eligible deferred maintenance projects listed on the Form SAB 40-20, until transferred into the District Deferred Maintenance Fund.
- (b) Transfer the excess funds from the Ongoing and Major Maintenance Account to the District Deferred Maintenance Fund and report the total dollar matching share on the Form SAB 40-21. These funds are available to the district to perform work on the Form SAB 40-20.

Note: Authority cited: Section 15503, Government Code

Reference: Sections 17070.75, 17582, and 17584, Education Code.

### Section 1866.13. Duplication of Applications.

If the district's application for an extreme hardship grant involves proposed work also included in a SFP modernization project currently included on the SFP Modernization Unfunded List or the OPSC Modernization Workload List or in a CSFP Rehabilitation project, the district must certify that, after reducing the work to be funded with the extreme hardship grant from the SFP modernization or CSFP Rehabilitation project, the cost estimate for the remaining work in the modernization or CSFP Rehabilitation project is at least 60 percent of the total SFP or CSFP grant amount provided by the state and the district's matching share. The cost estimate may not include planning, tests, inspection or furniture or equipment. If the district cannot make this certification, the SFP modernization or CSFP Rehabilitation project must be withdrawn prior to the release of any extreme hardship grants to the district.

If the district's application for FRP grants, SFP modernization grants, or CSFP Rehabilitation grants involves work currently included on the district's Form SAB 40-20, pursuant to Education Code Section 17591, the district must eliminate the projects that will be funded with the FRP grants, SFP modernization grants, or CSFP Rehabilitation grants from the Form prior to the release of any FRP grants, SFP modernization grants, or CSFP Rehabilitation grants to the district.

Note: Authority cited: Section 15503, Government Code.

Reference: Sections 17582, 17587 and 17591, Education Code.