

STATE ALLOCATION BOARD

1130 K Street, Suite 400
Sacramento, CA 95814

**IMPLEMENTATION COMMITTEE MINUTES**

June 6, 2008

Legislative Office Building
Sacramento, CA

Members Present

Rob Cook, SAB/OPSC

Lori Morgan, SAB/OPSC

Michael O'neil, CDE

Mamie Starr, CASH (Alternate for William Savidge)

Gary Gibbs, CBIA

Debra Pearson, SSDA

Margie Brown, CASBO

Robert Pierce, SSD

Vinceena Kelly, CCESSA (Alternate for Kenn Young)

Richard Conrad, DSA (Alternate for Kathy Hicks)

Dennis Dunston, CEFPI

Mark DeMan, LAUSD

Members Absent

Lenin Del Castillo, DOF

Dean Tatsuno, AIA

Cesar Diaz, SBCTC

The meeting was called to order at 9:40 am.

Minutes

The committee reviewed the minutes from the April 4, 2008 and the May 2, 2008 meetings and approved them as presented.

Assembly Bill 1014

Office of Public School Construction (OPSC) Staff Juan Mireles and Masha Lutsuk presented the proposed regulations, proposed revisions to the *Enrollment Projection/Certification* (Form SAB 50-01), and the High School Attendance Area (HSAA) Pupil Residence Worksheet for the implementation of Assembly Bill (AB) 1014 (Bass), Chapter 691, Statutes of 2007. Staff introduced a proposal on pupil reporting in the event of an enrollment anomaly and discussed suggestions made at the previous meeting regarding implementation of the following components: modified weighting mechanisms, birth rate augmentation, tenth-year enrollment projections and use of residency data for HSAA reporting

HSAA Reporting

Staff presented a proposed regulation section addressing HSAA pupil reporting options and a restriction on changing to and from pupil reporting by HSAA of attendance and pupil reporting by HSAA of residence.

- Various stakeholders expressed concern that only pupils residing in the district can be reported under the HSAA residency reporting option. An audience member described a scenario in which a district accepts pupils living in another district but very near the district boundary. The audience member stated that these of pupils may be considered interdistrict transfer pupils but effectively represent permanent enrollment for the district and should be allowed to be reported under the HSAA residency option. Staff responded that the Education Code Section 17071.75(a)(3)(A) specifies that only pupils residing in the district shall be reported under this option. Staff noted that districts

wishing to report interdistrict transfer pupils may continue to do so under districtwide reporting and HSAA reporting by pupil attendance.

- A Committee member requested that Staff clarify the language in the proposed Section 1859.41.1 to avoid implying that HSAA districts wishing to update enrollment after the initial HSAA eligibility determination must update enrollment for all HSAA in the district. Staff agreed to review this section.
- Audience and Committee members asked Staff to explain the need for a restriction on changing HSAA pupil reporting options. Staff clarified that the proposed restriction on changing HSAA pupil reporting options would not be an extension of the current five-year lock on changing to and from HSAA and districtwide pupil reporting. A district reporting by HSAA would be subject to the restriction on changing to and from HSAA reporting options, but this particular restriction would not prevent an HSAA district from changing to districtwide enrollment reporting. Staff explained that, without a restriction on changing HSAA reporting options, it is possible that a district could receive funding for the same pupils in one HSAA based on residency reporting and then another HSAA based on attendance reporting if the pupils intended for the first project have not yet occupied facilities in the other HSAA.
- An audience member suggested that Staff instead allow a one-time switch of HSAA pupil reporting options in a five-year lock period. Staff responded that the suggestion would not prevent the possibility of double-funding facilities.
- A Committee member also asked Staff to explain the connection between the time of occupation of the facilities and time of the submittal of the final *Expenditure Report* (Form SAB 50-06) as part of the HSAA reporting option restriction timeline. Staff responded that the final Form SAB 50-06 is already part of the funding process, and, while the submission of the Form SAB 50-06 does not mean that the new facilities are occupied, it does mean that they are ready to be occupied.

Non-Special Day Class Enrollment Projection

Staff presented changes and additions to the existing regulations outlining non-Special Day Class enrollment projections. Proposed regulations for the tenth-year enrollment projection option have been added to this section.

- An audience member asked Staff if the proposed regulations would allow districts to apply the dwelling unit augmentation and birth rate adjustment mechanisms to the tenth-year enrollment projection option. Staff responded that it appears that, in the law, these options refer to the fifth-year projection only, and the ten-year projection is mentioned in a separate section. However, Staff agreed to explore the reading of the law.
- Another audience member asked if Staff had considered using a percentage change in enrollment instead of the present numerical change that is used to project enrollment. Staff explained that it had tested the proposal on past enrollment projections and found that the percentage change method produced comparable results for very large districts but generated high error rates on projected enrollment for all other districts.

Birth Rate Augmentation

Staff presented an alternative proposal for the birth rate augmentation that would allow districts to utilize the “birth-attendance” rate augmentation. This method would compare either county birth data or district birth data by district ZIP Codes to kindergarten enrollment five years later and apply an average historical “birth-attendance” rate to available birth data.

- A Committee member asked Staff to clarify which ZIP Codes a district would report if requesting a birth rate augmentation based on ZIP Code birth data. Another Committee member commented that birth data for ZIP codes only partially served by the Committee

member's district are not included in the district's own enrollment projection. A member of the audience requested that Staff add language to the regulations to allow districts to justify reporting a portion of births by ZIP code. Staff agreed to clarify the requirements for using birth data by ZIP code for the birth-attendance rate augmentation.

- Staff proposed that the projected kindergarten enrollment be calculated using the current kindergarten projection method for years in which birth data is not available. Several stakeholders mentioned several alternatives to the proposed method, including using projected birth data from the Department of Finance or using an average of previous years' birth numbers. Another stakeholder asked Staff to consider allowing districts to report birth data obtained at the county level when birth data is not available from the Department of Health Services. Staff agreed to look into the alternatives presented and explore the possibility of utilizing these alternatives.

Modified Weighting Mechanisms

Staff presented its proposed method to implement modified weighting mechanisms and noted that corresponding regulations will be proposed at a subsequent Implementation Committee meeting.

- A member of the audience asked Staff to explain the necessity of providing 18 years of enrollment data to produce ten data points for accuracy analysis for districts that wish to utilize alternate weighting mechanisms. The audience member suggested that districts instead provide enrollment data to produce five data points for analysis. Staff noted that in order to yield statistically significant results, ten data points using 18 years of enrollment data are needed to analyze the accuracy of each weighting mechanism.
- An audience member asked how districts that have been merged, split, or otherwise reorganized would report enrollment data for the regression analysis. The audience member also commented that CBEDS data from twenty years ago is not available for districts to report. Staff informed the audience member that the CBEDS data used in Staff's analysis was modified to account for districts experiencing reorganizations, and that reorganized districts would report enrollment in a similar fashion. For example, if two districts merged, the regression analysis would compare the merged district's data to the projection based on the combined historical enrollment of the formerly separate districts. Staff also informed the audience member that the CBEDS data is available from 1980-1981 to the present and that Staff would provide the link to this information for users.

Special Day Class (SDC) Enrollment Projection

Staff presented proposed regulations changes to this section to implement the tenth-year projection and to remove the requirement that districts report SDC pupils by classification to project enrollment.

- A Committee member asked Staff if reporting SDC pupils by total pupils in the Non-Severe or Severe categories would change the enrollment projection. Staff noted that the enrollment projection might differ by one or two pupil grants because there would be fewer numbers to round. Staff clarified that the SDC enrollment projection computation is not altered and that elimination of this reporting requirement is meant to simplify SDC pupil reporting.

Enrollment Reporting in the Event of an Anomaly

Staff presented proposed regulations to allow mitigated enrollment reporting for districts experiencing temporary anomalies that significantly reduce district enrollment.

- An audience member asked Staff to explain the requirement that a district experience a 25 percent drop in enrollment in a K-12, 7-8, or 9-12 grade category. Some members of the Committee and audience proposed to eliminate the 25 percent threshold or replace it with different percentage thresholds depending on district enrollment size. A Committee

member suggested that no measurement of enrollment decline is necessary to be required as long as it is agreed that a district experienced an anomalous event. Staff voiced its concern with this suggestion but agreed to review them.

- An audience member asked if this regulation section could apply to HSAAs as well as whole districts. Staff agreed to modify the regulations to clarify that this section applies to districts or HSAAs or Super HSAAs.
- A member of the audience requested that Staff revise the language in proposed Section 1859.44(e)(1) to better describe how districts would submit the additional enrollment data. Staff agreed to clarify this section.

Changes to the Form SAB 50-01

Staff presented the proposed revised Form SAB 50-01 and revised form instructions.

- An audience member commented that Part I, “One-Year Projected Enrollment” should not be removed from the Form SAB 50-01 because those projections are used to determine Interim Housing needs for districts seeking Financial Hardship approval. Staff agreed to explore this suggestion.

Material Inaccuracy Penalties

Mr. Rick Asbell, of the Office of Public School Construction (OPSC), presented the loss of self-certification recommendations section. Due to the complexity of the item originally presented at the March 7, 2008 Implementation Committee meeting, it was decided that the item would be presented in sections. The section regarding the recovery of interest to make the bonds whole will be presented at a future meeting.

A committee member agreed with the work group suggestion for Example A regarding the percentage of compliance. This member stated that since the *Fund Release Authorization* form is incorporated by regulation and not statute, the threshold requirement can be modified to allow consideration if the district has between 45 to 49 percent of construction under contract. Another member stated that since districts use multi-prime contracts for certain projects it is difficult to calculate when the district has met threshold. Staff stated that the percentage of compliance could be disclosed in the Board item presented to the SAB.

An audience member stated that the project rescission and corresponding recovery of interest, in a scenario where the district did not meet the 18-month time limit on fund release (Example A – Invalid Fund Release), is enough of a penalty and the five-year loss of self-certification recommendation is not necessary. A committee member countered that a rescission is not a penalty in cases of modernization projects since the district is able to re-apply and be reimbursed for expenditures. Another committee member countered that the interest collected from districts is not a penalty but an effort by the SAB to make bond funds whole.

An audience member expressed concern with SFP Regulation Section 1859.104 stating that it omits a section of EC Section 17070.51(b)(2) which states that the self-certification prohibition period could end when the district repays the amount owed. Staff informed the audience that legal counsel was consulted regarding this issue. The legal counsel opinion was that the regulation is not in violation of the statute.

Audience members and Staff agreed with the committee member suggestion in recommending a loss of self-certification of up to five years in cases where the district did meet the 18-month time limit on fund release, but did have prior rescission(s) associated with an invalid fund release (Example B – Premature Fund Release).

Another audience member referenced Attachment B stating that the Material Inaccuracy regulations were not adopted until sometime near July 2002. This audience member was

questioning whether a retroactive application of the regulations was appropriate. Staff advised that it would consult legal counsel on this matter; however, Staff also pointed out that the law had sufficient level of detail to be implemented as of its effective date of January 1, 2001.

An audience member stated that if the Material Inaccuracy is the first offense of its kind by the district, the district should be placed on a watch list. Also in this situation, instead of taking an item to the Board to recommend Material Inaccuracy penalties associated with a premature or invalid fund release, Staff should implement an informal period in which it requests documentation from the district to substantiate a fund release request. In response, Staff stated that per statute OPSC is required to notify the Board if a Material Inaccuracy has occurred. Staff also stated that the OPSC is already requesting contract dates and the percentage of construction expenditures under contract on the *Fund Release Authorization* form for all projects.

An inquiry was made as to when this item would be presented to the SAB. The response was that the recovery of interest to make the bonds whole would be discussed at a future committee meeting, and once the item is presented and discussed in its entirety, an item will be prepared to the SAB.

Material Inaccuracy Regulations regarding the *Project Information Worksheet*

Mr. Rick Asbell of the OPSC presented the topic, which provides districts with protections from Material Inaccuracy findings that are based solely on information provided on the new *Project Information Worksheet*. He stated that the worksheet will be used to collect data, and the proposed regulation ensures that reliable data are collected. Four options were included in the presentation.

One committee member expressed interest in changing the words in Option 2 from “most accurate information” to “sound data”. An audience member responded that ‘sound data’, ‘most accurate information’, and ‘good faith’ were all subjective things. This member also asked what was wrong with removing “the most accurate information” altogether. Staff responded that it needs to encourage good data, and the worksheet states that some of the data are ‘estimates’. A committee member agreed that the OPSC needs to ensure that reliable data is collected, and proposed using Option 2 with “best available data” instead of “most accurate information”. Committee and audience members generally agreed to this compromise.

The proposed regulatory language that was agreed to is the following:

“A school district filing a *Project Information Worksheet* with the best available information at the time of filing will not be subject to a Material Inaccuracy for that information.”

It was stated that this item will be presented at the June State Allocation Board meeting with this language.

Financial Hardship

Although this topic was originally indexed, it was withdrawn from the Committee agenda given the existing full agenda and that a Financial Hardship workgroup was formed to preliminarily delve into the technical Financial Hardship issues.

Adjournment and Next Meeting

The meeting adjourned at 3:35 p.m. The next committee meeting is scheduled for Monday, June 16, 2008 at 9:30 a.m. and will be held at the Legislative Office Building located at 1020 N Street, Room 100, Sacramento, California.