

STATE ALLOCATION BOARD

1130 K Street, Suite 400
Sacramento, CA 95814
<http://www.opsc.dgs.ca.gov>



Date: November 21, 2008

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, December 5, 2008* from 9:30 a.m. to 3:30 p.m. in the Legislative Office Building located at 1020 "N" Street, Room 100, Sacramento, California.

The Implementation Committee's proposed agenda is as follows:

- 1) Convene Meeting
- 2) 2009 Implementation Committee Meeting Calendar
- 3) Financial Hardship Program
Continue discussion on the Financial Hardship Program
- 4) Accessibility and Fire Code Requirements for Modernization Projects
Continue discussion on proposed regulatory amendments to the Accessibility and Fire Code grant allowance
- 5) Joint-Use Program
Continue discussion on proposed regulatory amendments to the Joint-Use Program

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 Danielle Burch at (916) 445-9383.

A handwritten signature in cursive script that reads "Katrina Valentine".

KATRINA VALENTINE, Chairperson
State Allocation Board Implementation Committee

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE

Pending Items List
December 5, 2008

A. Future Items

- 60 Percent Commensurate Regulation
- 150 Percent Regulation
- Role of the Implementation Committee
- Alternative Education Loading Standards and Funding
- Accessibility and Fire Code Requirements for Modernization Projects

STATE ALLOCATION BOARD

1130 K Street, Suite 400
Sacramento, CA 95814

**IMPLEMENTATION COMMITTEE MINUTES**

November 7, 2008

Legislative Office Building
Sacramento, CA

Members Present

Katrina Valentine, SAB
Lori Morgan, SAB/OPSC
Fred Yeager, CDE
William Savidge, CASH
Kenn Young, CCESSA
Lettie Boggs, CASBO (Alternate for Margie Brown)
Dennis Dunston, CEFPP

Robert Pierce, SSD
Mark DeMan, LAUSD
Debra Pearson, SSDA
Richard Conrad, DSA
Chris Ferguson, DOF

Members Absent

Dean Tatsuno, AIA
Cesar Diaz, SBCTC
Gary Gibbs, CBIA

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

Minutes

Minutes for the September 19 and October 3, 2008 Implementation Committee (IMP) meetings were accepted as presented.

Opening Remarks

The Chair welcomed Chris Ferguson as the new Department of Finance representative on the Implementation Committee. A committee member requested that Seismic Mitigation be added to the IMP future items list. The Chair responded that Seismic Mitigation will be added to the IMP future items list if the State Allocation Board (SAB) determines that there is a need for changes.

An inquiry was made regarding the "Role of the IMP" item on the future items list. The Chair explained that this item may be discussed at a future IMP meeting.

Emergency Repair Program

Office of Public School Construction (OPSC) Staff members Masha Lutsuk and Joel Ryan presented the proposed revisions to the Emergency Repair Program (ERP) forms and regulations.

The OPSC presented three proposals:

- ERP Regulations;
- *Grant Request* (Form SAB 61-03), and;
- *Expenditure Report* (Form SAB 61-04);

ERP Regulations:

At the October 3, 2008 IMP meeting, the OPSC presented proposed changes to the ERP Regulations that would require Local Educational Agencies (LEAs) to submit any ERP savings concurrently with the Form SAB 61-04. In response to concerns raised at the October 3 IMP

meeting regarding increased pressure on project completion timelines, the proposed regulations now feature a three month extended time limit on the Grant Apportionment.

Discussion Points:

A question was raised regarding when the three month extension on the Grant Apportionment will become effective. The OPSC responded that the extension will take effect once the regulations are approved by the Office of Administrative Law (OAL), and will apply to any Form SAB 61-04 due after the effective date of the regulations.

Grant Request (Form SAB 61-03):

The OPSC presented proposed changes to the Form SAB 61-03 to clarify submittal requirements and to distinguish between construction costs, and application preparation and submittal costs. Based on a suggestion offered at the last IMP meeting, Staff added a reference to the Facility Inspection Tool on the Form.

Expenditure Report (Form SAB 61-04):

At the October 3, 2008 IMP Committee meeting, the OPSC presented proposed changes to the Form SAB 61-04, including new sections to assist the LEA in the calculation of the Grant Adjustment amount and a requirement to submit a new ERP Detailed Listing of Warrants Worksheet. In response to a request at the October 3 IMP meeting for greater flexibility in the ERP Detailed Listing of Warrants Worksheet, the proposed revisions now allow for an LEA to submit a worksheet containing the same information in lieu of the ERP Detailed Listing of Warrants Worksheet format.

Discussion Points:

Members inquired whether the Form SAB 61-04 would be required of an LEA that submitted the Form SAB 61-04 prior to the effective date of the revised version, in the event that 15-day letter findings necessitated revisions. Staff clarified that revisions in response to a 15-day letter should be provided on the version of the Form SAB 61-04 in effect at that time, as that would be the only form available. Staff further clarified that the additional requirements on the revised Form SAB 61-04 will only apply to LEAs submitting the initial Form SAB 61-04 after the effective date of the revised Form. The new requirements will not apply to funding requests made prior to regulation revisions, as it has been a long-standing practice to subject applications to Regulations in effect at that time of initial filing.

Staff stated that interest earned on an ERP grant is calculated from the warrant release date to the Form SAB 61-04 signed date. An audience member asked what happens when a district does not begin earning interest on ERP Grant funds when the warrant is released (e.g. the warrant is not deposited right away, etc.). Staff responded that a reasonable determination of interest earned must be made by the LEA and that Staff may review the interest calculation as part of any project audit.

An audience member asked about expenditures made after the Form SAB 61-04 submittal. Staff stated that these expenditures do not qualify for funding pursuant to ERP Regulations. An inquiry was made regarding whether a Notice of Completion must be filed for a project to be considered complete. Other members responded that the LEA certifies on the Form that the project is complete. Staff clarified that the intent of the certification is to ensure that construction activities to mitigate the health and safety threat are completed. The certification does not apply to project close out activities, such as the filing of the Notice of Completion.

A committee member asked whether a savings threshold could be established, whereby amounts lower than the savings threshold would not have to be returned to the State. Staff commented that they will consider this issue.

Next Steps:

Staff agreed to consider the proposed changes and to redistribute the proposal for committee and stakeholder comments.

Financial Hardship Program

This item was previously discussed at the May 16, 2008, September 5, 2008, September 19, 2008, October 3, 2008, and November 7, 2008 Implementation Committee meetings.

OPSC staff members Lisa Silverman, Jason Hernandez, and Steve Inman presented the revised proposed Financial Hardship (FH) regulations. Staff introduced a two track option for FH status: districts may choose a six-month or an eighteen-month track. Staff provided a side by side presentation of the two tracks, which overall was well accepted by committee members and the audience.

Discussion Points:

Concerns were raised regarding the definition of “non-required facilities” provided in the regulations for the 18 month track, and whether this definition is accepted by the Department of Education. The OPSC responded that the introductory remarks for these regulations indicate that the definition is for the purposes of FH review only. A recommendation was made that the OPSC remove the “non-required facilities” language and simply state that the specified encumbrances will not be allowed.

A question was raised regarding why a district cannot switch tracks after the initial selection. The OPSC responded that the purpose of offering the two track option is to streamline the FH program; permitting districts to change tracks would create difficulties, increase the complexity of the review, increase the time required for reviews, and could magnify current concerns about the program. A grace period was suggested for the initial implementation. The OPSC agreed to consider this option.

There was a question regarding why there is language in the six month track about liquidating encumbrances. Staff explained that there are concerns with a school district receiving FH status with the benefit of tying up revenue. If unforeseen circumstances cause a project to be withdrawn or rescinded, there needs to be a mechanism to adjust the district's available funds.

Issues specific to county offices of education (COEs) were raised. A committee member asked that consideration be given to the issuance of Certificates of Participation by COEs for needed administration facilities, since COEs cannot issue bonds and have limited revenue resources. The OPSC responded that they met with a COE group on several occasions, but did not receive assistance in establishing criteria to allow this. The COE group advised the OPSC that since all COEs are different, it was not possible for the group to come up with specific and fair criteria that would apply to all COEs. Staff stated that since no criteria were presented to the OPSC, they were unable to move forward with any changes. Staff agreed to continue discussion with the COE group in the future, if requested. This would be a separate discussion from the current proposed regulation changes.

The issue of small school districts contributing more to their FH projects than larger districts was discussed. An audience member questioned whether the proposed small school district exemption is justified, and felt a loophole could be potentially created if a small district experienced a population growth.

An inquiry was made regarding revising the Redevelopment Agency (RDA) required documents for Financial Checklist Phase II. It was suggested the list be more specific regarding the RDA documents requested. Staff stated that the documents should include an RDA map showing the RDA zones and the school for which the district is requesting FH funding, and an RDA report showing the RDA balances for each redevelopment area.

Next Steps:

Staff agreed to consider the comments received and bring an item back to the December IMP meeting.

Accessibility and Fire Code Requirements for Modernization Projects

OPSC Staff members Rick Asbell, Brigitte Baul, and Matthew Nakao presented proposed regulatory amendments to permanently replace the Modernization Accessibility and Fire Code three percent option with the 60 percent of the minimum work necessary option.

The three percent option may provide districts with excessive funding for accessibility and fire code requirements when the seven percent provided in the base grant is sufficient to provide adequate funding for the accessibility and fire code requirements.

Discussion Points:

An inquiry was raised regarding whether the three percent option may be more beneficial than the 60 percent option to some districts. The OPSC responded that, in general, the 60 percent option is far more beneficial to districts, and that the three percent option does not account for the actual work being done or the base grant amount designated for accessibility and fire code requirements. A comment was made that large projects may benefit more from the three percent option. The OPSC clarified that, in cases when the three percent option would provide more funding than the 60 percent option, the State would be providing more than the 60 percent State share of the accessibility and fire code costs. An inquiry was made regarding the amount of excess funding granted under the three percent option. The OPSC agreed to provide the dollar amount at a future IMP meeting.

Questions were raised regarding why the OPSC is proposing to limit districts' options for accessibility and fire code requirements. The OPSC responded that the SAB approved a one-year trial and requested that the OPSC present a proposal based on the trial findings.

A suggestion was made for the accessibility and fire code requirement cost estimate to include a provision for soft costs. The OPSC agreed to consider this recommendation.

An inquiry was raised regarding whether the OPSC had conducted an analysis of why some districts do not request the excessive cost hardship grant for accessibility and fire code requirements. The OPSC responded that this analysis has not been conducted and was uncertain whether that data is available.

An inquiry was raised regarding whether the OPSC had conducted an analysis to determine if districts requesting the three percent option could have received more funding by requesting the 60 percent option. The OPSC agreed to look into this issue.

An audience member inquired whether the OPSC had conducted an analysis of the 11 modernization projects that hit the 60 percent option cap. The OPSC responded that the projects hit the cap because an extensive amount of accessibility and fire code work was required, and explained that the cap was created because a building must be rehabilitated to conform to the current building code if the cost to modernize the facility exceeds 50 percent of the cost to replace the facility.

Next Steps:

Staff agreed to consider the comments received and present the requested information at the December IMP meeting.

Adjournment and Next Meeting

The meeting adjourned at 3:24 p.m. The next IMP meeting is scheduled for Friday, December 5, 2008 at 9:30 a.m. and will be held at the Legislative Office Building located at 1020 N Street, Room 100, Sacramento, California.

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**Implementation Committee
2009 MEETING CALENDAR****January 2009 - Cancelled****Friday, July 10, 2009**

Legislative Office Building
1020 N Street, Room 100
Sacramento, California

Friday, February 6, 2009

Legislative Office Building
1020 N Street, Room 100
Sacramento, California

Friday, August 7, 2009

Legislative Office Building
1020 N Street, Room 100
Sacramento, California

Friday, March 6, 2009*

Legislative Office Building
1020 N Street, Room 100
Sacramento, California

Thursday, September 3, 2009

Legislative Office Building
1020 N Street, Room 100
Sacramento, California

Friday, April 3, 2009

Legislative Office Building
1020 N Street, Room 100
Sacramento, California

Friday, October 2, 2009*

Legislative Office Building
1020 N Street, Room 100
Sacramento, California

Friday, May 1, 2009

Legislative Office Building
1020 N Street, Room 100
Sacramento, California

Friday, November 6, 2009

Legislative Office Building
1020 N Street, Room 100
Sacramento, California

Friday, June 5, 2009*

Legislative Office Building
1020 N Street, Room 100
Sacramento, California

December 2009 – Only if Necessary

* Please note: this meeting may be rescheduled to a location outside of Sacramento.

*Meeting times are scheduled from 9:30 am to 3:30 pm with a 1-hour lunch break.
Meeting times, dates and locations are subject to change.*

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE MEETING
December 5, 2008

FINANCIAL HARDSHIP PROGRAM REGULATORY AMENDMENTS

PURPOSE OF REPORT

To provide proposed regulation changes for the Financial Hardship (FH) program.

BACKGROUND

At the April 23, 2008 State Allocation Board (SAB) meeting, the SAB requested the Office of Public School Construction (OPSC) to bring back to the May 28, 2008 meeting proposed regulatory amendments to the FH program for the SAB's consideration. Revisions were requested due to issues disclosed from OPSC's recent FH reviews.

Staff met with representatives from County Offices of Education (COE) on May 9, 2008 and the FH Advisory Group on May 12, 2008 to discuss broad concepts for reforming the FH program. Meeting participants discussed program integrity and process improvement concepts. These concepts were then incorporated into draft regulations that were presented at the May 16, 2008 Implementation Committee meeting. Some Implementation Committee members expressed concern that the regulation changes were too broad to consider in one meeting. After a lengthy discussion, Staff committed to scaling back the regulations for consideration at the May 28, 2008 SAB meeting.

Proposed regulations were presented at the May 28, 2008 SAB meeting. Based on the discussion at the meeting, the SAB requested that Staff bring the proposed regulations to the June 2008 Implementation Committee meeting for further discussion and clarification before the Board takes any further action on these regulations.

Instead of immediately taking the item back to the June 2008 Implementation Committee meeting, staff formulated a group consisting of representatives from COEs, school districts, the California Association of School Business Officials (CASBO) and members of the Coalition for Adequate School Housing (CASH) to further develop and clarify proposed regulation changes. This group (FH Reform Group) has had numerous meetings during the summer, resulting in the proposed changes which were presented at the September 5, 2008 and September 19, 2008 Implementation Committee meetings.

Some members claimed that they were not clear about the issues discussed by OPSC staff and why they were proposing changes to the FH program. In response, at the October 3, 2008 Implementation Committee meeting staff presented all the FH issues dating back to May 2005.

At the last Implementation Committee meeting held on November 7, 2008 staff presented major changes to the previous proposed regulation packages. In addition to introducing a two track option for the FH status of six and eighteen month tracks, staff presented updated proposed regulations. Based on input from the November 7, 2008 Implementation Committee meeting, staff is presenting the following regulation changes in an attempt to bring forward recommendations to provide integrity and bond accountability to the FH program.

AUTHORITY

Education Code Section 17075.15 and the School Facility Program (SFP) Regulation Section 1859.81 outline the requirements of the FH program; Education Code Section 17070.63(c) and SFP Regulation Section 1859.103 outline savings, and Education Code Section 17076.10(a) and SFP Regulation Section 1859.104 outline the SFP reporting requirements.

STAFF COMMENTS

The OPSC has drafted proposed regulation changes for the FH program (proposed regulations attached). These regulatory changes will improve integrity, clarity, and uniformity to the program. Staff has proposed draft regulations that offer districts two tracks (options) when applying for FH status. One track would have a FH approval period of six months and the second track would offer a FH approval period of eighteen months. However, after these regulations go into effect and once a track is chosen a district will not be able to change tracks for a period of five years from the date of the district's last FH approval.

TRACK 1 – SIX-MONTH APPROVAL PERIOD:

1. PROGRAM REPORTING REQUIREMENTS / CONDITIONS – Section 1859.104 and 1859.81

Issue: (1) Tracking project expenditures and encumbrances is cumbersome and time consuming when unique account codes or sub-accounts are not used. This increases the time required to conduct a FH review; (2) Districts not fully disclosing all their capital facility funding sources regardless of what fund the revenue may be deposited in.

Solution: (1) As a condition of receiving any SFP grant, all applicants must follow the California Department of Education (CDE) California School Accounting Manual and create and maintain a sub-fund account or unique account code for each SFP project that accounts for all revenues and expenditures; (2) In addition, as a condition of receiving FH status and funding approval, all applicants shall fully disclose all financial information and resources for capital facilities funding.

2. SAVINGS – Section 1859.103

Issue: Tracking savings on multiple FH projects can be difficult for districts and the OPSC. Districts which choose to apply savings to a future FH apportionment and do not move forward with any future FH projects are subjecting themselves to a greater amount of interest being charged on the savings before it is returned to the State. Returning the savings while the funds are available in Fund 35 would eliminate any burden on the district to pay back the savings from other funds.

Solution: All FH project savings must be returned when the final expenditure report (Form 50-06) is due, or apply savings to reduce the SFP FH grant on another FH project currently on the OPSC workload.

3. INITIAL REVIEW – Section 1859.81(b)(1)

Issue:

Encumbrances – In a recent review a district claimed the full encumbrance for construction projects even though they were scheduled to receive 50 percent funding from the State. Thereby the available funds reported by the district were understated.

Solution:

Encumbrances - For purposes of FH review, no encumbrances will be allowed for the State share of any SFP project. This means no reservation of funds will be allowed for expenditures anticipated to be covered by State SFP apportionments.

TRACK 2 – EIGHTEEN-MONTH APPROVAL PERIOD:

1. PROGRAM REPORTING REQUIREMENTS / CONDITIONS – Section 1859.104 and 1859.81

Note: The proposed regulation language in this section is the same as the six-month track.

2. SAVINGS – Section 1859.103

Note: The proposed regulation language in this section is the same as the six-month track.

3. INITIAL REVIEW – Section 1859.81(b)(1)

Issue:

- Revenues – Capital Facility Funding designated for capital facility purposes that is not deposited in a capital projects fund is not always reported by a district.
 - During the course of conducting FH reviews we have encountered instances when all capital facility funding was not disclosed. For example, Certificate of Participation (COP) proceeds not being deposited into a capital project fund and being left off any of the Fund worksheets submitted with the FH package. When such funds are not disclosed this increases the burden on Staff to insure all applicable capital facility funding is included in the FH review. Therefore, this again increases the time necessary to conduct a FH review.
- Encumbrances – Districts control the timing of their FH submittals in order to encumber funds prior to their FH review. As a result, the OPSC cannot recognize these funds as available for contribution towards their SFP FH projects. This permits districts to utilize their available funds for other district priorities and have the State fund up to 100 percent for their SFP project. Thereby the State ends up subsidizing facilities such as athletic stadiums/complexes, aquatic centers, theater art centers, and district administration buildings.
 - Also, if these encumbered projects get reduced to costs incurred or rescinded no adjustments are made to the district's level of contribution.
 - In a recent review a district claimed the full encumbrance for construction projects even though they were scheduled to receive 50 percent funding from the State. Thereby the available funds reported by the district were understated.
- Expenditures – Districts spend down their available funds before applying for FH status so the State contributes up to 100 percent funding for their SFP projects.

Solution:

- Revenues - They are defined to include all capital facility funding for capital facility purposes regardless of what fund they are deposited into.
- Encumbrances - For purposes of FH review, encumbrances for certain facilities will not be allowed. In addition, for purposes of FH review, no encumbrances will be allowed for the State share of any SFP project. Meaning no reservation of funds will be allowed for expenditures anticipated to be covered by State SFP apportionments. Districts will be required to provide evidence that they are materially liquidating their encumbrances.
- Expenditures – For purposes of FH review, expenditures for certain facilities will not be allowed.

4. APPROVAL PERIOD EXTENDED / RENEWAL REVIEW – Section 1859.81(b)(2)

Issue: For some districts the complexity of the FH review leaves the six-month approval status as too short of a time period. In addition, the six-month period is an insufficient time period to complete a SFP project.

Solution: The FH status will be extended from six to eighteen months on this track; a district will need to request to reestablish FH status at eighteen months. Staff will validate there are expenditures liquidating the encumbrances. If there are no material expenditures against the encumbrances within a twelve-month period, then the encumbrances will be disallowed and considered as available district contribution. The increase in the approval period from six to eighteen months will be directly linked to the interim reporting requirements. However, once a district chooses the eighteen-month track there will be a five-year lockout between switching tracks commencing from the district's last FH approval.

5. INTERIM REPORTING REQUIREMENT – Section 1859.81(e)

Issue: For some districts the six-month FH approval period is too short a period to work with; therefore, Staff is proposing to give districts the option to request an eighteen-month FH approval status. However, an increase in an approval period would also increase the potential for timing issues involving revenue, expenditures, and encumbrances. Therefore, there would have to be safe guards built in to insure the integrity of the bonds.

Solution: With the extension of the approval period from six to eighteen months, interim reporting will be required while in FH status. During the period of FH status, the district shall submit 1st and 2nd interim financial reports, and year-end reports (as required by the Department of Education) and other documentation as determined by the OPSC that includes revenues, encumbrances and expenditures. Review of this information by the OPSC could result in additional funds being available as district contribution. Failure to comply with this requirement may result in termination of FH status, suspension of fund releases, or remission of FH apportionments back to the OPSC.

6. THREE YEAR RULE – Section 1859.81(b)(2)(J)

Issue: Under current regulations, after the initial request for FH status is granted, no further encumbrances of existing capital facility funds are approved by the OPSC, and all prospective capital facility revenue is deemed available on the subsequent FH review. The regulations provide for an exception to this requirement if the district stays out of the FH program for a period of three years from the date of the district's latest FH adjusted grant apportionment.

Under this three-year provision, some districts receive SFP FH approval for up to 100 percent State funding of their projects, and then later issue Certificates of Participation (COP), General Obligation (GO) bonds, or other funding mechanisms that are not recognized as district contribution towards their previously funded SFP projects. If the districts wait to file subsequent SFP funding applications until after the three years from the date of their last adjusted grant apportionment, the funds if spent or encumbered would not be available as contribution to the future SFP projects. This leaves a large timing loop-hole in the program.

In addition, if a SFP closeout audit finds that a project was overspent a district is given two choices: (1) apply the overspent amount to a future SFP project to reduce the FH apportionment accordingly; or (2) stay out of the FH program for three years from the date of the district's latest FH adjusted grant apportionment. The issue is that districts are often not required to stay out for a true three-year period. In fact, frequently a district only has to stay out of the FH program for a couple of months after the audit finding before they are past their three-year period.

Solution: Change that recognizes that the three-year period begins with the latest of the following: (1) the date of the most recent financial hardship new construction or modernization adjusted grant funding; (2) the date of the most recent financial hardship approval status; or (3) the date the district elects to stay out of the financial hardship program per a SFP project audit finding. Each of these occurrences would restart the three-year clock.

7. SMALL SCHOOL DISTRICTS – Section 1859.81(f)

Issue: In the course of conducting FH reviews on small school districts; it has become apparent to Staff that these districts are often contributing a higher percentage of their over all fund balances when compared to other districts. This creates an equity situation with the potential to knock smaller school districts into financial distress.

Solution: For small school districts (with ADA less than 2500), the maximum district contribution from non-bond funds shall not exceed the minimum reserve balance for economic uncertainty during the 12 month FH status.

6 Month Track

Section 1859.103. Savings

(a) A district may expend the non-FH savings not needed for a project on other high priority capital facility needs of the district including the relocation of district facilities necessary as a result of Subdivision (b) of Education Code Section 17072.12. The grants for the projects funded pursuant to Section 1859.70.2 or Section 1859.180 shall be limited to eligible expenditures, up to the State Apportionment for the project. Savings may be declared by the district in writing to the OPSC any time after the release of all funds for the project. With the exception of savings attributable to a site apportionment made pursuant to Section 1859.74.5;

(b) ~~The State's portion of any FH savings and interest declared by the district pursuant to Section 1859.104(a) or determined by the OPSC by audit must be used to reduce the SFP financial hardship grant of that project or other financial hardship projects within the district for a period of three years from the date the savings were declared by the district or determined by the OPSC audit. must be returned to the OPSC with the final expenditure report or used to reduce the SFP financial hardship grant on another financial hardship project that has been accepted to OPSC workload as of the date SAB Form 50-06 is accepted. The submittal of the savings does not preclude any additional adjustments based on the OPSC final audit determination. Any interest earned on a financial hardship project not expended on eligible project expenditures will be treated as savings and will be used to reduce the SFP financial hardship grant for that project.~~

(c) The State's portion of any savings from a new construction project or a Joint-Use Project may be used as a district matching share requirement, only on another new construction project, and the State's share of any savings from a modernization project may be used as a district matching share requirement, only on another modernization project.

~~Any interest earned on a financial hardship project not expended on eligible project expenditures will be treated as savings and will be used to reduce the SFP financial hardship grant for that project.~~

~~Note: Authority cited: Section 17070.35, Education Code.~~

~~Reference: Sections 17070.63, 17072.12, 17077.40 and 17079.20, Education Code.~~

Section 1859.104. Program Reporting Requirements.

As a condition of receiving any SFP grant, a school district must follow the CDE California School Accounting Manual and create and maintain a sub-fund account or unique account code for each SAB SFP project that accounts for all revenues and expenditures including, but not limited to, SFP grants and school district contributions.

A district receiving funds in accordance with the Act shall submit the following:

(a) An expenditure report from the district on the Form SAB 50-06. The program reporting requirements are as follows:

(1) The first expenditure report shall be due one year from the date that any funds were released to the district for the project pursuant to Section 1859.90, or upon completion of the project, whichever occurs first. A project shall be deemed complete when either of the following occur:

(A) When the notice of completion for the project has been filed, all outstanding invoices, claims, change orders have been satisfied and the facility is currently in use by the district.

(B) Three years from the date of the final fund release for an elementary school project or four years from the date of the final fund release for a middle or high school project.

(2) The second and subsequent expenditure reports, if necessary, shall be due annually beginning one year from the first report, or upon completion of the project, whichever occurs first. The final expenditure report

6 Month Track

must be made no later than three years from the date of the final fund release for an elementary school project or four years from the date of the final fund release for a middle or high school project.

(b) With the exception of projects that qualify for an apportionment pursuant to Section 1859.75.1, a progress report, in the form of a narrative from the district, shall be due 18 months from the date any funds were released to the district for the project pursuant to Section 1859.90. The progress report shall include information regarding the progress the district has made towards substantial completion of the project. If the notice of completion has been filed within 18 months of the release of funds pursuant to Section 1859.90, or the expenditure reports required in (a)(1) or (2) indicate that substantial progress (as defined in Section 1859.105) on the project has occurred, no progress report is required.

(c) A progress report, in the form of a narrative from the district, shall be due 12 months from the date the site acquisition funds were apportioned to the district for the project pursuant to Section 1859.75.1. The progress report shall include information regarding the progress the district has made towards acquiring the site as outlined in Section 1859.105.1 and may contain other evidence of reasonable effort to substantiate progress towards acquiring the site for purposes of an extension of the site apportionment as authorized by Education Code Section 17072.13(c)(2).

(d) If an apportionment was made for a district-owned site pursuant to Section 1859.74.5, a certification that the non-school function currently taking place on the district-owned site has been discontinued or relocated. The certification must be submitted to the OPSC no later than the following dates:

- (1) If the project is for an elementary school, 66 months from the date of the site apportionment.
- (2) For all other projects, 78 months from the date of the site apportionment.

(e) If an Apportionment was made under the Small High School Program pursuant to:

(1) Section 1859.78.9 or Section 1859.93.2, a cost evaluation report shall be due to the OPSC no later than two complete school years after the Occupancy of the approved project.

(2) Section 1859.93.2, the district must provide a preliminary report on any academic data requested by CDE two complete school years after the Occupancy of the approved project. The final report shall be due no later than two complete school years after the OPSC notifies the district of the Occupancy of the last approved project.

(f) If an Apportionment was made under the Overcrowding Relief Grant pursuant to Section 1859.180, the School District must provide a certification that the replaced portables were removed from the eligible site and from service pursuant to Education Code Section 17079.30.

Note: Authority cited: Sections 17070.35, 17072.13, and 17079.30, Education Code.

Reference: Sections 17070.35, 17070.99, 17072.12, 17072.13 17076.10 and 17079.30, Education Code.

Section 1859.81. Financial Hardship.

As a condition of receiving FH status and funding approval, all districts shall fully disclose all financial information and resources for capital facilities funding. In addition, districts must meet the program reporting requirements listed in regulation section 1859.104. Failure to meet this condition will result in the termination of the district's FH status. Upon proof of compliance with the condition, satisfactory to the OPSC, districts may reapply for FH status.

Except for Joint-Use Projects and Career Technical Educational Facilities Projects, a district is eligible for financial hardship to fund all or a portion of its matching share requirement after demonstrating the requirements of (a), (e)(b), and (e)(c) below:

(e) (a) The district has made all reasonable efforts to fund its matching share of the project by demonstrating it is levying the developer fee justified under law or an alternative revenue source equal to or greater than the developer fee otherwise justified under law at the time of request for hardship and the district meets at least one of the following:

6 Month Track

(1) The current outstanding bonded indebtedness of the district issued for the purpose of constructing school facilities in accordance with Education Code Section 17072.35 or 17074.25 as appropriate, at the time of request for financial hardship status, is at least 60 percent of the district's total bonding capacity.

Outstanding bonded indebtedness includes that part of general obligation bonds, Mello-Roos Bonds, School Facility Improvement District Bonds and certificates of participation which the district is paying a debt service that was issued for capital outlay school facility purposes.

(2) The district had a successful registered voter bond election for at least the maximum amount allowed under Proposition 39 within the previous two years from the date of request for financial hardship status.

The proceeds from the bond election that represent the maximum amount allowed under the provisions of Proposition 39 must be used to fund the district's matching share requirement for SFP project(s).

(3) It is a County Superintendent of Schools.

(4) The district's total bonding capacity at the time of the request for financial hardship status is \$5 million or less.

(5) Other evidence of reasonable effort as approved by the SAB.

~~(a) The district is financially unable to provide all necessary matching funds for an eligible project. To determine this, an analysis shall be made of the district's financial records by the OPSC including data and records maintained by the CDE and the County Office of Education. The analysis shall consist of a review of the district's latest Independent Audit regarding funds available from all capital facility accounts, including, but not limited to, developer fees, funds generated from capital facility certificates of participation, federal grants, redevelopment funds, sale proceeds from surplus property, the appraised value of facilities approved for replacement pursuant to Section 1859.82, bond funds either encumbered, unencumbered or authorized but unsold, and savings from other SFP projects. All funds thus identified that have not been expended or encumbered by a contractual agreement for a specific capital outlay purpose prior to the initial request for financial hardship status shall be deemed available as a matching contribution.~~

After the initial request for financial hardship status is granted, no further encumbrances will be approved by the OPSC and all prospective revenue made available to the district's capital facility accounts shall be deemed available as matching contribution on the subsequent financial hardship review, with the exception of:

(b) Review - The district is financially unable to provide all necessary matching funds for an eligible project. To determine this, a review of the school district's financial records will be performed by the OPSC, including, but not limited to, data and records maintained by the CDE and the County Office of Education and the school district's latest Independent Audit Reports.

(i) Once the district chooses the six month FH track they will not be allowed to switch tracks for a period of five years from their last FH approval. This will pertain to district's applying for their initial or renewal FH review.

(1) Initial Review shall include:

(A) Revenues – all capital facility funding that is designated for capital outlay purposes, including, but not limited to, apportioned state grants, developer fees, funds generated from capital facility certificates of participation, federal grants, redevelopment funds, sale proceeds from surplus property, the appraised value of facilities approved for replacement pursuant to Section 1859.82, bond funds either apportioned, in-excess of refinanced amounts, encumbered, unencumbered or authorized but unsold.

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(B) Encumbrances allowed for purposes of FH review - The encumbrances must meet the definition as provided in the CDE California School Accounting Manual.

(i) The district will provide evidence that expenditures are materially liquidating the encumbrances through the life of the project to OPSC's satisfaction. If there are no material expenditures against the encumbrances within a 12 month period, then the district will be required to unencumber the funds and the OPSC will consider the unencumbered funds as district contribution.

(ii) No encumbrances will be allowed for the State share of any project. Therefore, no reservation of funds will be allowed for expenditures anticipated to be covered by State apportionment.

(2) Renewal Review is defined as a district's request to re-establish financial hardship status after their 6-month financial hardship approval has expired.

Revenues defined in subsection (1)(A) above shall be included in a renewal review.

After the initial request for financial hardship status is granted, no further **No additional** encumbrances will be approved by the OPSC **beyond those approved at the initial FH approval** and all **All** prospective revenue **as defined in subsection (d)(1)** made available to the district's capital facility accounts **project funds and/or capital facility funding designated for capital outlay purposes** shall be deemed available as matching **district** contribution on the subsequent financial hardship review, with the exception of:

(A) Approved interim housing expenditures up to maximum allowance defined in subsection **(f)**.

(B) Funding to pay for previously recognized multi-year encumbrances/contracts approved at the initial financial hardship approval. **Expenditures that exceed the amount of the matching encumbrance approved at the initial FH approval will be disallowed and considered available as district contribution. The OPSC will validate the expenditures are materially liquidating the encumbrances through the life of the project. If there are no material expenditures against the encumbrances within a 12 month period, then the encumbrances will be disallowed and considered as available district contribution.**

(C) Funding that is transferred into a Special Reserve Fund and is used for the express purpose of the Federal Renovation Program when the amount expended out of that fund does not exceed the maximum Federal Renovation Grant amount.

(D) Funding that is transferred into a Special Reserve Fund and is used for the express purpose of the School Facilities Needs Assessment Grant Program or Emergency Repair Program when the amount expended out of that fund does not exceed the maximum grant amount apportioned.

(E) Funding that is transferred into a Special Reserve Fund and is used for the express purpose of the Career Technical Education Facilities Program when the amount expended out of that fund does not exceed the applicant's share of the maximum grant amount apportioned.

(G) Funding that is transferred into a Special Reserve Fund and used for the express purpose of the Overcrowding Relief Grant when the amount expended out of that fund does not exceed the amount of the site acquisition and design costs of the project and the district has submitted an approved Form SAB 50-11.

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(H) Funding that is used for the express purpose of reimbursing the State a proportionate share of financial hardship received when there has been a transfer of a special education program and title to the facility. In addition, the funding was used within five years of the title transfer.

(I) Funding to pay for obtaining a structural report pursuant to Section 1859.82 for an approvable and funded seismic mitigation project.

(J) All other capital facility funding for a period of three years when no subsequent financial hardship request is made during this period, with the exception of the funding identified in (6). The three-year period begins with the date of the most recent financial hardship new construction or modernization adjusted grant funding apportionment.

When Overcrowding Relief Grant funding is set aside pursuant to (G) and the School District has not submitted, or the OPSC has not accepted, a Form SAB 50-04 for an Overcrowding Relief Grant within three years from the date of deposit into the Special Reserve Fund, or the School District has not met the requirements in Sections 1859.90 or 1859.105, remaining funds plus interest accrued at the Pooled Money Investment Board rate at that time period shall be deemed available as matching contribution on a subsequent financial hardship project or be captured through an audit adjustment pursuant to Section 1859.106.

~~The financial hardship analysis is subject to approval by the Board. This item has been moved to page 7.~~

~~(c)~~ (c) The district has not signed a contract for acquisition or construction of classrooms that replace existing facility(ies), which were included in the determination of the district's new construction eligibility pursuant to Education Code Section 17071.75, in a locally funded project during the five-year period immediately preceding the district's application for financial hardship assistance. This restriction may be lifted if the Board finds that unforeseen and extenuating circumstances existed that required the district to use local funds to replace the facility(ies). ~~If the district's request for financial hardship status is denied by the Board, the district may be deemed eligible for rental payments of \$2,000 per year per classroom under the Emergency School Classroom Law of 1979 for a two year period when relocatable classroom buildings are available and the district provides financial documentation that it is unable to afford the full rental amount and any other information satisfactory to the Board that the rental reduction is necessary. The number of classrooms eligible for the \$2,000 rental payments shall be the sum of the numbers determined in (c)(5)(B) as follows:~~

~~(A) Determine the number of pupils by grade level that the district requested a New Construction Grant on the Form SAB 50-04 that were denied financial hardship status.~~

~~(B) Divide the number by grade level determined in (c)(5)(A) by 25 for K-6, 27 for 7-12, 13 for Non-Severe and 9 for Severe and round up to the nearest whole number.~~

~~(b)~~ (d) From the funds deemed available as a matching contribution, the district may retain \$19,776 per classroom in each enrollment reporting period for the cost to provide interim housing for the currently unhoused pupils of the district. The amount shown shall be adjusted annually in the manner prescribed in Section 1859.71. The number of classrooms needed for interim housing for the currently unhoused pupils shall be the sum of the positive numbers determined in ~~(b)~~ (d) (7) as follows:

(1) Determine the current enrollment of the district by grade level as shown on the latest Form SAB 50-01.

(2) Determine the New Construction Grants apportioned by grade level for all SFP projects and LPP funded under the provisions of Sections 1859.12 or 1859.13 where the district has submitted Form SAB 50-06 indicating that the project is 100 percent complete.

(3) Subtract ~~(b)~~ (d) (2) from ~~(b)~~ (d) (1).

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- (4) Determine the number of classrooms by grade level reported in Part 1, Line 8 on Form SAB 50-02.
- (5) Multiply the classrooms determined in ~~(b)~~(d) (4) by 25 for K-6, 27 for 7-12, 13 for Non-Severe and 9 for Severe.
- (6) Subtract the product determined in ~~(b)~~(d) (5) from the difference determined in ~~(b)~~(d) (3) by grade level.
- (7) Divide the difference by grade level determined in ~~(b)~~(d) (6) by 25 for K-6, 27 for 7-12, 13 for Non-Severe and 9 for Severe and round up to the nearest whole number.

From the funds deemed available as a matching contribution, the district may also retain \$19,776 per portable toilet unit in each reporting period for the cost to provide necessary interim toilet facilities for the currently unhoused pupils of the district. The amount shown shall be adjusted annually in the manner prescribed in Section 1859.71. The number of toilet facilities needed for interim housing shall be the sum of the positive numbers determined in ~~(b)~~(f) (7) divided by eight rounded up to the nearest whole number.

If the district's available funds, as determined by the OPSC analysis less costs for interim housing, is less than its matching share, the district will be deemed to have met the requirements of this Subsection.

If the district meets the financial hardship requirements in this Section, the amount of financial hardship is equal to the district's matching share less funds deemed available in ~~(a)~~(b).

The financial hardship analysis is subject to approval by the Board.

Once a district has been notified by the OPSC that it meets the requirements of financial hardship in this Section, the district may file Form SAB 50-04 under the provisions of financial hardship anytime within a period of 180 calendar days from the date of the OPSC notification. If the district does not submit Form SAB 50-04 under the provisions of financial hardship within 180 calendar days of the OPSC notification of approval of financial hardship status, the district must re-qualify for financial hardship status under the provisions of this Section by submittal of a new request for financial hardship status.

If the district submits Form SAB 50-04 within 180 calendar days of the OPSC notification of approval of financial hardship and the project(s) has been included on an unfunded list for more than 180 calendar days a review of the district's funds pursuant to ~~(a)~~ (b) will be made to determine if additional district funds are available to fund the district's matching share of the project(s). Financial hardship approval status by the OPSC for a separate design and/or site apportionment does not apply to any subsequent funding for the project(s).

Note: Authority cited: Sections 17070.35, 17075.15, 17078.72 and 17592.73, Education Code.
Reference: Sections 17071.75, 17075.10, 17075.15, and 17079.20, Education Code.

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Section 1859.103. Savings

(a) A district may expend the non-FH savings not needed for a project on other high priority capital facility needs of the district including the relocation of district facilities necessary as a result of Subdivision (b) of Education Code Section 17072.12. The grants for the projects funded pursuant to Section 1859.70.2 or Section 1859.180 shall be limited to eligible expenditures, up to the State Apportionment for the project. Savings may be declared by the district in writing to the OPSC any time after the release of all funds for the project. With the exception of savings attributable to a site apportionment made pursuant to Section 1859.74.5:

(b) ~~The State's portion of any FH savings and interest declared by the district pursuant to Section 1859.104(a) or determined by the OPSC by audit must be used to reduce the SFP financial hardship grant of that project or other financial hardship projects within the district for a period of three years from the date the savings were declared by the district or determined by the OPSC audit. must be returned to the OPSC with the final expenditure report or used to reduce the SFP financial hardship grant on another financial hardship project that has been accepted to OPSC workload as of the date SAB Form 50-06 is accepted. The submittal of the savings does not preclude any additional adjustments based on the OPSC final audit determination. Any interest earned on a financial hardship project not expended on eligible project expenditures will be treated as savings and will be used to reduce the SFP financial hardship grant for that project.~~

(c) The State's portion of any savings from a new construction project or a Joint-Use Project may be used as a district matching share requirement, only on another new construction project, and the State's share of any savings from a modernization project may be used as a district matching share requirement, only on another modernization project.

~~Any interest earned on a financial hardship project not expended on eligible project expenditures will be treated as savings and will be used to reduce the SFP financial hardship grant for that project.~~

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.63, 17072.12, 17077.40 and 17079.20, Education Code.

Section 1859.104. Program Reporting Requirements.

As a condition of receiving any SFP grant, a school district must follow the CDE California School Accounting Manual and create and maintain a sub-fund account or unique account code for each SAB SFP project that accounts for all revenues and expenditures including, but not limited to, SFP grants and school district contributions.

A district receiving funds in accordance with the Act shall submit the following:

(a) An expenditure report from the district on the Form SAB 50-06. The program reporting requirements are as follows:

(1) The first expenditure report shall be due one year from the date that any funds were released to the district for the project pursuant to Section 1859.90, or upon completion of the project, whichever occurs first.

A project shall be deemed complete when either of the following occur:

(A) When the notice of completion for the project has been filed, all outstanding invoices, claims, change orders have been satisfied and the facility is currently in use by the district.

(B) Three years from the date of the final fund release for an elementary school project or four years from the date of the final fund release for a middle or high school project.

(2) The second and subsequent expenditure reports, if necessary, shall be due annually beginning one year from the first report, or upon completion of the project, whichever occurs first. The final expenditure report

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must be made no later than three years from the date of the final fund release for an elementary school project or four years from the date of the final fund release for a middle or high school project.

(b) With the exception of projects that qualify for an apportionment pursuant to Section 1859.75.1, a progress report, in the form of a narrative from the district, shall be due 18 months from the date any funds were released to the district for the project pursuant to Section 1859.90. The progress report shall include information regarding the progress the district has made towards substantial completion of the project. If the notice of completion has been filed within 18 months of the release of funds pursuant to Section 1859.90, or the expenditure reports required in (a)(1) or (2) indicate that substantial progress (as defined in Section 1859.105) on the project has occurred, no progress report is required.

(c) A progress report, in the form of a narrative from the district, shall be due 12 months from the date the site acquisition funds were apportioned to the district for the project pursuant to Section 1859.75.1. The progress report shall include information regarding the progress the district has made towards acquiring the site as outlined in Section 1859.105.1 and may contain other evidence of reasonable effort to substantiate progress towards acquiring the site for purposes of an extension of the site apportionment as authorized by Education Code Section 17072.13(c)(2).

(d) If an apportionment was made for a district-owned site pursuant to Section 1859.74.5, a certification that the non-school function currently taking place on the district-owned site has been discontinued or relocated. The certification must be submitted to the OPSC no later than the following dates:

(1) If the project is for an elementary school, 66 months from the date of the site apportionment.

(2) For all other projects, 78 months from the date of the site apportionment.

(e) If an Apportionment was made under the Small High School Program pursuant to:

(1) Section 1859.78.9 or Section 1859.93.2, a cost evaluation report shall be due to the OPSC no later than two complete school years after the Occupancy of the approved project.

(2) Section 1859.93.2, the district must provide a preliminary report on any academic data requested by CDE two complete school years after the Occupancy of the approved project. The final report shall be due no later than two complete school years after the OPSC notifies the district of the Occupancy of the last approved project.

(f) If an Apportionment was made under the Overcrowding Relief Grant pursuant to Section 1859.180, the School District must provide a certification that the replaced portables were removed from the eligible site and from service pursuant to Education Code Section 17079.30.

Note: Authority cited: Sections 17070.35, 17072.13, and 17079.30, Education Code.

Reference: Sections 17070.35, 17070.99, 17072.12, 17072.13 17076.10 and 17079.30, Education Code.

Section 1859.81. Financial Hardship.

As a condition of receiving FH status and funding approval, all districts shall fully disclose all financial information and resources for capital facilities funding. In addition, districts must meet the program reporting requirements listed in regulation section 1859.104. Failure to meet this condition will result in the termination of the district's FH status. Upon proof of compliance with the condition, satisfactory to the OPSC, districts may reapply for FH status.

Except for Joint-Use Projects and Career Technical Educational Facilities Projects, a district is eligible for financial hardship to fund all or a portion of its matching share requirement after demonstrating the requirements of (a), (e)(b), and (d)(c) below:

(e) (a) The district has made all reasonable efforts to fund its matching share of the project by demonstrating it is levying the developer fee justified under law or an alternative revenue source equal to or greater than the developer fee otherwise justified under law at the time of request for hardship and the district meets at least one of the following:

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(1) The current outstanding bonded indebtedness of the district issued for the purpose of constructing school facilities in accordance with Education Code Section 17072.35 or 17074.25 as appropriate, at the time of request for financial hardship status, is at least 60 percent of the district's total bonding capacity.

Outstanding bonded indebtedness includes that part of general obligation bonds, Mello-Roos Bonds, School Facility Improvement District Bonds and certificates of participation which the district is paying a debt service that was issued for capital outlay school facility purposes.

(2) The district had a successful registered voter bond election for at least the maximum amount allowed under Proposition 39 within the previous two years from the date of request for financial hardship status.

The proceeds from the bond election that represent the maximum amount allowed under the provisions of Proposition 39 must be used to fund the district's matching share requirement for SFP project(s).

(3) It is a County Superintendent of Schools.

(4) The district's total bonding capacity at the time of the request for financial hardship status is \$5 million or less.

(5) Other evidence of reasonable effort as approved by the SAB.

(a) The district is financially unable to provide all necessary matching funds for an eligible project. To determine this, an analysis shall be made of the district's financial records by the OPSC including data and records maintained by the CDE and the County Office of Education. The analysis shall consist of a review of the district's latest Independent Audit regarding funds available from all capital facility accounts, including, but not limited to, developer fees, funds generated from capital facility certificates of participation, federal grants, redevelopment funds, sale proceeds from surplus property, the appraised value of facilities approved for replacement pursuant to Section 1859.82, bond funds either encumbered, unencumbered or authorized but unsold, and savings from other SFP projects. All funds thus identified that have not been expended or encumbered by a contractual agreement for a specific capital outlay purpose prior to the initial request for financial hardship status shall be deemed available as a matching contribution.

After the initial request for financial hardship status is granted, no further encumbrances will be approved by the OPSC and all prospective revenue made available to the district's capital facility accounts shall be deemed available as matching contribution on the subsequent financial hardship review, with the exception of:

(b) Review - The district is financially unable to provide all necessary matching funds for an eligible project. To determine this, a review of the school district's financial records will be performed by the OPSC, including, but not limited to, data and records maintained by the CDE and the County Office of Education and the school district's latest Independent Audit Reports.

(i) Once the district chooses the 18 month FH track they will not be allowed to switch tracks for a period of five years from their last FH approval. This will pertain to district's applying for their initial or renewal FH review.

(1) Initial Review shall include:

(A) Revenues – all capital facility funding that is designated for capital outlay purposes including, but not limited to, apportioned state grants, developer fees, funds generated from capital facility certificates of participation, federal grants, redevelopment funds, sale proceeds from surplus property, the appraised value of facilities approved for replacement pursuant to Section 1859.82, bond funds either apportioned, in-excess of refinanced amounts, encumbered, unencumbered or authorized but unsold.

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(B) Encumbrances allowed for purposes of FH review – The encumbrances must meet the definition as provided in the CDE California School Accounting Manual.

- (i) Encumbrances will not be allowed for athletic stadiums/complexes, aquatic centers, theater art centers or district administration buildings.**
- (ii) The district will provide evidence that expenditures are materially liquidating the encumbrances through the life of the project to OPSC's satisfaction. If there are no material expenditures against the encumbrances within a 12 month period, then the district will be required to unencumber the funds and the OPSC will consider the unencumbered funds as district contribution.**
- (iii) No encumbrances will be allowed for the State share of any project. Therefore, no reservation of funds will be allowed for expenditures anticipated to be covered by State apportionment.**

(C) Expenditures allowed - Expenditures will not be allowed for athletic stadiums/complexes, aquatic centers, theater art centers, or district administration buildings. The expenditures must meet the definition as provided in the CDE California School Accounting Manual.

(2) Renewal Review is defined as a district's request to re-establish financial hardship status after their 18 months financial hardship approval has expired.

Revenues defined in subsection (1)(A) above shall be included in a renewal review.

After the initial request for financial hardship status is granted, no further **No additional** encumbrances will be approved by the OPSC **beyond those approved at the initial FH approval.** and all **All** prospective revenue **as defined in subsection (d)(1)** made available to the district's capital facility accounts **project funds and/or capital facility funding designated for capital outlay purposes** shall be deemed available as matching **district** contribution on the subsequent financial hardship review, with the exception of:

(A) Approved interim housing expenditures up to maximum allowance defined in subsection **(f)**.

(B) Funding to pay for previously recognized multi-year encumbrances/contracts approved at the initial financial hardship approval. **Expenditures that exceed the amount of the matching encumbrance approved at the initial FH approval will be disallowed and considered available as district contribution. The OPSC will validate the expenditures are materially liquidating the encumbrances through the life of the project. If there are no material expenditures against the encumbrances within 12 month period, then the encumbrances will be disallowed and considered as available district contribution.**

(C) Funding that is transferred into a Special Reserve Fund and is used for the express purpose of the Federal Renovation Program when the amount expended out of that fund does not exceed the maximum Federal Renovation Grant amount.

(D) Funding that is transferred into a Special Reserve Fund and is used for the express purpose of the School Facilities Needs Assessment Grant Program or Emergency Repair Program when the amount expended out of that fund does not exceed the maximum grant amount apportioned.

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(E) Funding that is transferred into a Special Reserve Fund and is used for the express purpose of the Career Technical Education Facilities Program when the amount expended out of that fund does not exceed the applicant's share of the maximum grant amount apportioned.

(G) Funding that is transferred into a Special Reserve Fund and used for the express purpose of the Overcrowding Relief Grant when the amount expended out of that fund does not exceed the amount of the site acquisition and design costs of the project and the district has submitted an approved Form SAB 50-11.

(H) Funding that is used for the express purpose of reimbursing the State a proportionate share of financial hardship received when there has been a transfer of a special education program and title to the facility. In addition, the funding was used within five years of the title transfer.

(I) Funding to pay for obtaining a structural report pursuant to Section 1859.82 for an approvable and funded seismic mitigation project.

(J) All other capital facility funding for a period of three years when no subsequent financial hardship request is made during this period, with the exception of the funding identified in (6). The three-year period begins **with the latest of the following:** ~~the date of the most recent financial hardship new construction or modernization adjusted grant funding apportionment.~~

(i) the date of the most recent financial hardship new construction or modernization adjusted grant funding apportionment,

(ii) the date of the most recent financial hardship approval status, or

(iii) the date the district agreed to stay out of the financial hardship program for three years per an SFP project audit findings.

When Overcrowding Relief Grant funding is set aside pursuant to (G) and the School District has not submitted, or the OPSC has not accepted, a Form SAB 50-04 for an Overcrowding Relief Grant within three years from the date of deposit into the Special Reserve Fund, or the School District has not met the requirements in Sections 1859.90 or 1859.105, remaining funds plus interest accrued at the Pooled Money Investment Board rate at that time period shall be deemed available as matching contribution on a subsequent financial hardship project or be captured through an audit adjustment pursuant to Section 1859.106.

~~The financial hardship analysis is subject to approval by the Board. This item has been moved to page 7.~~

~~(d)(c)~~ **(c)** The district has not signed a contract for acquisition or construction of classrooms that replace existing facility(ies), which were included in the determination of the district's new construction eligibility pursuant to Education Code Section 17071.75, in a locally funded project during the five-year period immediately preceding the district's application for financial hardship assistance. This restriction may be lifted if the Board finds that unforeseen and extenuating circumstances existed that required the district to use local funds to replace the facility(ies). ~~If the district's request for financial hardship status is denied by the Board, the district may be deemed eligible for rental payments of \$2,000 per year per classroom under the Emergency School Classroom Law of 1979 for a two year period when relocatable classroom buildings are available and the district provides financial documentation that it is unable to afford the full rental amount and any other information satisfactory to the Board that the rental reduction is necessary. The number of classrooms eligible for the \$2,000 rental payments shall be the sum of the numbers determined in (c)(5)(B) as follows:~~

~~(A) Determine the number of pupils by grade level that the district requested a New Construction Grant on the Form SAB 50-04 that were denied financial hardship status.~~

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~~(B)~~ Divide the number by grade level determined in ~~(c)(5)(A)~~ by 25 for K-6, 27 for 7-12, 13 for Non-Severe and 9 for Severe and round up to the nearest whole number.

~~(b)(d)~~ From the funds deemed available as a matching contribution, the district may retain \$19,776 per classroom in each enrollment reporting period for the cost to provide interim housing for the currently unhoused pupils of the district. The amount shown shall be adjusted annually in the manner prescribed in Section 1859.71. The number of classrooms needed for interim housing for the currently unhoused pupils shall be the sum of the positive numbers determined in ~~(b)(d)(7)~~ as follows:

- (1) Determine the current enrollment of the district by grade level as shown on the latest Form SAB 50-01.
- (2) Determine the New Construction Grants apportioned by grade level for all SFP projects and LPP funded under the provisions of Sections 1859.12 or 1859.13 where the district has submitted Form SAB 50-06 indicating that the project is 100 percent complete.
- (3) Subtract ~~(b)(d)(2)~~ from ~~(b)(d)(1)~~.
- (4) Determine the number of classrooms by grade level reported in Part 1, Line 8 on Form SAB 50-02.
- (5) Multiply the classrooms determined in ~~(b)(d)(4)~~ by 25 for K-6, 27 for 7-12, 13 for Non-Severe and 9 for Severe.
- (6) Subtract the product determined in ~~(b)(d)(5)~~ from the difference determined in ~~(b)(d)(3)~~ by grade level.
- (7) Divide the difference by grade level determined in ~~(b)(d)(6)~~ by 25 for K-6, 27 for 7-12, 13 for Non-Severe and 9 for Severe and round up to the nearest whole number.

From the funds deemed available as a matching contribution, the district may also retain \$19,776 per portable toilet unit in each reporting period for the cost to provide necessary interim toilet facilities for the currently unhoused pupils of the district. The amount shown shall be adjusted annually in the manner prescribed in Section 1859.71. The number of toilet facilities needed for interim housing shall be the sum of the positive numbers determined in ~~(b)(d)(7)~~ divided by eight rounded up to the nearest whole number.

If the district's available funds, as determined by the OPSC analysis less costs for interim housing, is less than its matching share, the district will be deemed to have met the requirements of this Subsection.

(e) The district shall submit certified 1st Interim Financial, 2nd Interim Financial, and Year End (YE) Financial reports as required by Ed Code sections 1240(l)(1)(A)&(B), 42130, and 42131 and other documentation as determined by OPSC that cover the full term of FH status that include revenues and expenditures as defined in subsections (d)(1) and (3) above to the OPSC on the following dates:

1st Interim Financial due December 15 (July 1 through October 31):

2nd Interim Financial due March 15 (November 1 through January 31):

YE Financial due September 15 (July 1 through June 30)

Any available revenues as a result of the 1st Interim Financial, 2nd Interim Financial, and YE Financial report reviews shall be considered available as district contribution. The district contribution will reduce the FH apportionment on SFP projects that have: (1) not been apportioned, (2) been apportioned and not received a fund release, and/or (3) declared/applied as savings for those projects that have received a fund release. The district contribution shall not exceed the state's share of FH assistance. The district will provide evidence that expenditures are materially liquidating the encumbrances through the life of the project to OPSC's satisfaction. If there are no material expenditures against the encumbrances within a 12

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month period, then the district will be required to disencumber the funds and the OPSC will consider the disencumbered funds as district contribution.

Failure to comply with the 1st Interim Financial, 2nd Interim Financial, and YE Financial reporting requirements may terminate the district's FH status and may suspend any fund releases. In addition, the district may be required to remit any FH apportionment(s) to the OPSC.

(f) For small school districts (with ADA less than 2500) the maximum district contribution from non-bond funds (bonds as defined in E.C. Section 17075.15(d)(2)) shall not exceed the minimum reserve balance for economic uncertainty (as defined in CCR, Title 5, Div. 1, Ch. 14, Subch. 8, Art. 1, Sec. 15443) during the 18 month FH status.

If the district meets the financial hardship requirements in this Section, the amount of financial hardship is equal to the district's matching share less funds deemed available in (a) (b).

The financial hardship analysis is subject to approval by the Board.

Once a district has been notified by the OPSC that it meets the requirements of financial hardship in this Section, the district may file Form SAB 50-04 under the provisions of financial hardship anytime within a period of 18 months from the date of the OPSC notification. If the district does not submit Form SAB 50-04 under the provisions of financial hardship within 18 months of the OPSC notification of approval of financial hardship status, the district must re-qualify for financial hardship status under the provisions of this Section by submittal of a new request for financial hardship status.

If the district submits Form SAB 50-04 within 18 months of the OPSC notification of approval of financial hardship and the project(s) has been included on an unfunded list for more than 18 months a review of the district's funds pursuant to (a) (b) will be made to determine if additional district funds are available to fund the district's matching share of the project(s). Financial hardship approval status by the OPSC for a separate design and/or site apportionment does not apply to any subsequent funding for the project(s).

Note: Authority cited: Sections 17070.35, 17075.15, 17078.72 and 17592.73, Education Code.
Reference: Sections 17071.75, 17075.10, 17075.15, and 17079.20, Education Code.

Attachment A
Financial Hardship Proposed Regulations – Side by Side

SCHOOL FACILITY PROGRAM/FINANCIAL HARDSHIP – PROPOSED REGULATIONS		
Issues	Six Month Track	18 Month track
<i>Savings</i> – It can be difficult and cumbersome for districts and OPSC to track.	1. Savings – returned with the final expenditure report or used to reduce the FH apportionment on a future project currently in the OPSC workload. <i>(Stamp Page No. 14)</i>	1. Savings – returned with the final expenditure report or used to reduce the FH apportionment on a future project currently in the OPSC workload. <i>(Stamp Page No. 20)</i>
<i>Disclosure</i> - Districts not fully disclosing their financial information.	2. Program Reporting Requirements – a school district must create and maintain a sub-fund account or unique account code for each SFP project. <i>(Stamp Page No. 14)</i>	2. Program Reporting Requirements – a school district must create and maintain a sub-fund account or unique account code for each SFP project. <i>(Stamp Page No. 20)</i>
	3. Full Disclosure – all districts shall fully disclose all financial information and resources for capital facilities funding. <i>(Stamp Page No. 15)</i>	3. Full Disclosure – all districts shall fully disclose all financial information and resources for capital facilities funding. <i>(Stamp Page No. 21)</i>
<i>Timing Issues</i> – This includes transferring funding and/or closing capital accounts before applying for FH; quick encumbering of funds before applying; spending down revenue before applying; and issuing debt after the initial FH review, staying out for 3 years and encumbering the new funding source before applying for FH again.	4. 3 Year Rule – No Changes in this track	4. 3 Year Rule – the three year period begins with either; (1) the most recent FH adjusted grant, (2) the most recent FH approval status, or (3) the date the district agreed to stay out of the FH program for three years per an SFP project audit findings. Each of these occurrences would restart the three year clock. <i>(Stamp Page No. 24)</i>

Attachment A
Financial Hardship Proposed Regulations – Side by Side

Issues	Six Month Track	18 Month track
<p><i>Timing Issues</i> – This includes transferring funding and/or closing capital accounts before applying for FH; quick encumbering of funds before applying; spending down revenue before applying; and issuing debt after the initial FH review, staying out for 3 years and encumbering the new funding source before applying for FH again.</p>	<p>5. Initial FH Review –</p> <ul style="list-style-type: none"> • Revenues – Description of the types of revenue included in a FH review. • Encumbrances – (1) Evidence that the district is liquidating their encumbrances. (2) No encumbrances allowed for the State share of a project. Meaning no reservation of funds will be allowed for expenditures anticipated to be covered by State apportionments. (Stamp Page No. 16 & 17) 	<p>5. Initial FH Review –</p> <ul style="list-style-type: none"> • Revenues – Description of the types of revenue included in a FH review. • Encumbrances – (1) Evidence that the district is liquidating their encumbrances. (2) No encumbrances allowed for the State share of a project. (3) Encumbrances not allowed for certain facilities. Will list out in the regulations. • Expenditures – For a FH review, expenditures for certain facilities not allowed. (Stamp Page No. 22 & 23)
<p><i>Length of FH Status</i> – for some districts the complexity of the FH program means the six month approval period is too short of a time.</p>	<p>6. Renewal FH Review – No Changes in this track. However, once the proposed regulations are in effect and the district chooses the six month track they will not be allowed to switch between tracks for a period of five years from their last FH approval. This will be the case whether the district is applying for an initial or renewal FH status.</p>	<p>6. Renewal FH Review – District may choose an 18 month track which is tied directly to the interim reporting requirement. However, once the proposed regulations are in effect and the district chooses the 18 month track they will not be allowed to switch tracks for a period of five years from their last FH approval. This will be the case whether the district is applying for an initial or renewal FH status. (Stamp Page No. 23)</p>
<p><i>Timing of Revenue</i> - districts applying for FH before revenue sources are available.</p>	<p>7. Interim Reporting – Not required in this track.</p>	<p>7. Interim Reporting – Requirement to submit interim reports for the period of the districts FH approval status and potentially capture additional funds. (Stamp Page No. 25 & 26)</p>

Attachment A
Financial Hardship Proposed Regulations – Side by Side

Issues	Six Month Track	18 Month track
<p><i>Equity</i> – it has become apparent some small districts have contributed a higher percentage of their overall fund balance compared to other districts.</p>	<p>8. Small School Districts – Not an exception in this track.</p>	<p>8. Small School Districts – the maximum district contribution from non-bond funds shall not exceed the minimum reserve for economic uncertainty in a calendar year. <i>(Stamp Page No. 26)</i></p>

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE MEETING
December 5, 2008

SCHOOL FACILITY PROGRAM JOINT-USE PROJECTS

PURPOSE

To discuss project funding cap amounts in the School Facilities Program (SFP) Joint-Use Program.

BACKGROUND

At the July 2008 State Allocation Board (SAB) meeting, the Board requested Staff to analyze the Joint-Use Program cap amounts to determine whether a modification is necessary to the SFP Regulations. The item was introduced at the September 2008 IMP Committee meeting. Staff proposed to use various methodologies to analyze the current cap amounts.

Under the current SFP Joint-Use Program, a joint-use project may consist of a multipurpose room, gymnasium, childcare facility, library, and/or teacher education facility. The State share of a joint-use project is the lesser of 50 percent of the eligible project costs or \$1 million for Elementary School projects, \$1.5 million for Middle School projects, and \$2 million for High School projects. Since the SFP Joint-Use Program was adopted, funding for joint-use projects has been provided in the form of grants, which are made up of a square footage derived base grant, and a number of supplemental grants.

DISCUSSION

Per suggestions gathered at the September IMP Committee meeting, Staff reviewed the Construction Cost Index increases from 2003 (the first year that SFP joint-use projects were funded) to 2008 for SFP per square foot base grant allowances and found a total increase of approximately 33 percent. In 2003, the SFP Joint-Use Program base grant allowances (the allowances that drive the funding formula for joint-use projects) were \$195 per square foot for toilet area and \$107 per square foot for non-toilet area. Currently, square foot base grant amounts are \$260 per square foot for toilet area and \$143 per square foot for non-toilet area.

The intent of the caps in the Joint-Use Program is to ensure that as many projects as possible can be funded with the historically limited funding available for joint-use projects, while contributing towards building a facility for the applicant district.

Staff reviewed every project apportioned in the SFP Joint-Use Program over the past five years to determine the amount that capped projects have exceeded the existing caps. For Type I projects, 17 of 35 projects reached the cap and the average amount over the cap was 27 percent across all grade levels. For Type II projects, 35 of 144 projects reached the cap and the average amount over the cap was 24 percent across all grade levels. These figures were generated by comparing the existing cap amounts to the allowances derived from the eligible square foot calculation in the Joint-Use Program regulations.

At this time, Staff would like to seek further input from the Committee members and stakeholders on appropriate cap amounts for the Joint-Use Program.