

STATE ALLOCATION BOARD

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



Date: May 21, 2009

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, June 5, 2009** 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) AB 127 Grant Adjustments
Continue discussion on the methodology for analyzing data obtained from the Project Information Worksheets.
- 3) 60 Percent Commensurate and 150 Percent Regulations
Continue discussion on the 60 Percent Commensurate and 150 Percent Regulations.
- 4) ~~Accessibility and Fire Code Requirements for Modernization Projects~~
~~*Continue discussion on proposed regulatory amendments to the Accessibility and Fire Code grant allowance.*~~
-WITHDRAWN

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 Sue Genera at (916) 445-4320.

A handwritten signature in black ink, appearing to read "Rob Cook".

ROB COOK, Executive Officer
State Allocation Board

Individuals who need auxiliary aids for effective participation are invited to make their requests and preferences known to Sue Genera at (916) 445-4320 five days prior to the meeting.

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE

Pending Items List
June 5, 2009

A. Future Items

- Accessibility and Fire Code Requirements for Modernization Projects
 - *This item was previously heard at the November 2008 Implementation Committee meeting. It will be brought back to a future Committee meeting for further discussion.*
 - Financial Hardship Program
 - Joint-Use Program
 - Role of the Implementation Committee
 - Alternative Education Loading Standards and Funding
 - Improvements to School District Appeal Request form
 - Process Improvements for Facility Hardship
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STATE ALLOCATION BOARD

1130 K Street, Suite 400
Sacramento, CA 95814

**IMPLEMENTATION COMMITTEE MINUTES**

May 1, 2009

Legislative Office Building
Sacramento, CA

Members Present

Juan Mireles, SAB/OPSC (Interim Chair)
Masha Lutsuk, SAB/OPSC (Alternate for Lori Morgan)
Fred Yeager, CDE
William Savidge, CASH
Mamie Starr, CCESSA (Alternate for Kenn Young)
Lettie Boggs, CASBO (Alternate for Margie Brown)

Robert Pierce, SSD
Shawn Atlow, LAUSD (Alternate for Mark DeMan)
Dave Zian, DSA (Alternate for Richard Conrad; AM only)
Chris Ferguson, DOF
Dennis Dunston, CEFP
Gary Gibbs, CBIA

Members Absent

Cesar Diaz, SBCTC
Dean Tatsuno, AIA
Debra Pearson, SSSA

The meeting was called to order at 9:39 am.

Minutes

Minutes for the April 3, 2009 Implementation Committee (IMP) meeting were accepted as presented.

Opening Remarks

The Interim Chair announced that the process for the email distribution of IMP agenda items to committee members and interested parties will be different, beginning with item distribution for the June IMP meeting. In lieu of email attachments for the items, the email will provide a link to the OPSC website, where the items are posted.

The Interim Chair mentioned that an email was recently distributed to IMP members regarding the vacant Assistant Executive Officer to the State Allocation Board (SAB) position, and encouraged interested parties to apply for the position.

Appreciation was expressed that the items for this meeting were distributed to IMP members and interested parties one week prior to the meeting.

AB 127 Grant Adjustments – Analysis of Project Information Worksheet Data*Overview:*

OPSC staff member Josh Rosenstein presented an item to continue the discussion in determining the methodology for analyzing project data provided via the Project Information Worksheet (PIW).

Discussion Points

An inquiry was raised regarding the proposed criteria for excluding specific PIWs from analysis. It was suggested that rather than excluding PIWs with errors or missing information, that these issues be reconciled with the districts. In response, the OPSC stated that this may be possible

but that it will depend on the number of PIWs that will require this further research. Additionally, a concern was expressed regarding substituting data provided by the district with the SAB approved State apportionment information for PIWs with a slight variance between reported funds received and what appears on the approved funding item. The Interim Chair responded this could be possible, but had to be done quickly as to not delay the analysis process.

A committee member suggested excluding projects that had Financial Hardship status only at the design phase as these projects may have been designed down to fit within the Financial Hardship budget; keeping them in the analysis could skew the data. Another member countered that these projects could include potential elements in the design that would allow for either expansion or a phase two of the project. The Interim Chair responded that this would be considered, but that whether these projects were eliminated would depend largely on how many there were and how much the PIW pool would be depleted if they were excluded. It was offered that an option could be to include them in the analysis but keep them in a separate category.

In response to an inquiry regarding how many times a PIW must be submitted, OPSC staff responded that the PIW is required to be submitted a minimum of three times as part of the Governor's Executive Order for bond accountability. Comments were made that the PIW was required too many times within a short period of time and that for the purpose of grant adequacy, final data for complete projects would be the most accurate and useful. The Interim Chair responded that this would be taken into consideration.

An inquiry was raised regarding whether SDC projects could receive a waiver on submitting PIWs if these projects will likely be excluded from the PIW analysis. The Interim Chair responded that this would require further consideration.

Comments were made that projects with portable construction should be removed or kept separate from projects with permanent construction as these projects could skew the data. OPSC staff responded that the analysis could possibly be broken down by construction type and that results could be presented both combined and separate. The Interim Chair added that there is currently no authority to allow for different grant adjustments based on construction type, and to do so would require a legislative change. A committee member added that the majority of portable projects do not request the full number of pupil grants to correspond to State loading standards. Another member offered that projects that did not request the maximum grant amount could be adjusted and fully loaded for the purpose of analysis. OPSC staff responded that that was an option.

A committee member asked if the analysis was going to separate projects by project type. OPSC staff responded that the analysis needs to result in a recommendation regarding the K-6, 7-8, and 9-12 pupil grants. The OPSC stated that the analysis could be separated by project type, but it must be determined which project types will be analyzed to come up with a recommendation.

Concerns were expressed that the more adjustments are made to the data set, the harder it will be to get an accurate representation of the situation.

A committee member asked whether current PIWs had been reviewed to determine how many would pass all the criteria outlined in the item. OPSC staff responded that 200 PIWs had been reviewed using similar criteria and roughly 150 passed. In response, the committee member asked if the PIWs showed a geographic skew. OPSC staff responded that this has not yet been analyzed.

A committee member inquired about looking at projects by size. Another member added that costs are significantly less for projects that add classrooms to existing sites. OPSC staff

responded that addition projects were addressed at the previous committee meeting and were not included in this item.

A committee member inquired as to whether addition projects would be included in the analysis. OPSC staff responded that additions would be included in order to make a recommendation, but that the data could be broken down into subsets for discussion. The Interim Chair added that projects that under-report pupils could either be adjusted or excluded completely. OPSC staff commented that excluding projects that under-report pupils as a whole would remove a significant amount of the data, over thirty percent of the entire PIW pool. A committee member inquired as to why the number of such projects was so high. A concern was expressed that additions may be undertaken because districts cannot afford to build new schools.

A committee member expressed concern that some PIWs may contain artificial data due to districts prorating costs from linked projects. The member indicated that sometimes projects are bid together to take advantage of economies of scale, and that the PIW does not account for this. It was suggested that the PIW be revised to allow for combined project reporting. Staff responded that for PIWs which indicated that the project was bid together with another State funded project, the proposed protocol would call for the exclusion of these projects from the sample.

An audience member expressed concern that if combined projects were automatically excluded, some districts may have been forced to pay their architect to split up these costs for PIW reporting for no reason. In response, the Interim Chair noted that project costs would be required to be split for audit purposes regardless of any PIW requirement. A committee member noted that audit reporting for combined projects can be done more easily than PIW reporting, as for audits the costs can be simply prorated where as the PIW requires the breakdown by type of costs.

An audience member inquired if it was the intent of the OPSC to make one recommendation for all of the grants or to make separate recommendations for each of the three K-12 grade categories. Staff indicated an expectation to make one recommendation for each of the three categories, but requested assistance in determining in which study multi-level category projects (such as K-8) should be included. A committee member inquired as to the number of these projects. Staff responded that the number is unknown, but that a decision should not automatically be made to exclude them in case the number is significant. Staff proposed three options for multi-level category projects:

1. Exclude these projects from study
2. Include these projects in the predominant category
3. Prorate funding and costs for these projects and include in both categories

A comment was made that the analysis should only focus on typical types of projects and projects with good data.

Audience and committee members expressed concerns about including site development costs in the comparison between State apportionment and project costs. Some stated that these costs should be included as it would be too difficult to separate these costs from the total construction costs. Others argued that site development was one of the biggest variables, and would skew the results if not excluded. An inquiry was made as to why current regulations do not cover all site development costs that are required in a project. The Interim Chair responded that site development costs are not part of the issue regarding the pupil grant increase. OPSC staff pointed out that the PIW can be a useful tool, and that with an improved data collection process, the PIW could possibly be used to make better determinations with regards to site development funding in the future.

Comments were made regarding the method that should be used to compare the data. OPSC staff presented the option of using a bell curve. A committee member expressed the concern that the data analysis would probably not result in a normal distribution. OPSC staff responded that the small sample that had already been reviewed had produced a somewhat normal distribution, but it would not be possible to determine the exact model that would work best until all the data was reviewed. An audience member suggested the use of a scatter plot diagram to show projects with respect to magnitude of building and level of funding.

An audience member inquired as to how the different project dates would be represented on the bell curve. OPSC staff responded that there would be individual curves for K-6, 7-8, and 9-12 projects since a separate recommendation would be given for each category.

An inquiry was made as to how the analysis would account for changes in the bidding climate. OPSC staff responded that an option could be to add a time series to this analysis.

A suggestion was made to use a cost per square foot methodology. This prompted concerns that there were too many variances between projects and it would be difficult to establish standards for this method to be possible. Additionally, it was questioned how the results would be translated back into per-pupil grant data. The Interim Chair responded that this was a possible option, but would not necessarily be the one chosen, or the only one used.

An inquiry was made regarding the possibility that certain districts be exempted from the PIW once it has been determined which projects will be excluded from the study. The OPSC responded that that could be discussed.

Next Steps:

OPSC staff will attempt to develop a more fine-tuned methodology, taking into account the suggestions made at this meeting. Discussion will continue at the next IMP meeting.

60 Percent Commensurate and 150 Percent Regulations

Overview:

OPSC staff members Josh Damoth and Tim Hegedus presented an item to review the 150 Percent rule and 60 Percent Commensurate requirement. The discussion included a brief history of Senate Bill (SB) 50 (Chapter 407, Statutes of 1998 – Greene) and Assembly Bill (AB) 695 (Chapter 858, Statutes of 1999 – Mazzoni), which stipulated how a school district's eligibility is to be created and maintained.

Discussion Points:

Staff and audience members discussed the OPSC's current practice of adjusting a school district's eligibility pursuant to the 150 percent regulation at the time of apportionment rather than at the time of audit, as was the practice prior to 2007. Staff explained that doing the adjustment at the time of apportionment ensures that districts are aware of their new construction eligibility so that projects can be planned accordingly. If the adjustment is not made until the time of audit, a district's baseline may reflect the appearance of excess eligibility for up to seven years after funding. This could lead a district to plan or receive funding when it does not actually have adequate eligibility.

Concerns were raised about specific language in SFP Regulation section 1859.51(i)(7) regarding when the 150 Percent rule is to be applied. Some committee and audience members expressed that the language is confusing and illogical, and some expressed that the regulation may be misaligned with Education Code (EC) Section 17071.75(b). One audience member suggested that SB 50 and AB 695 allow districts to build classroom capacity beyond the pupil grant request. Staff noted that AB 695, enacted after SB 50, requires that a school district's

eligibility baseline must be reduced, based on the State loading standards, for all State and locally funded classrooms that are added to a school district's inventory.

Staff noted that the 150 Percent rule provides greater flexibility than Statute provides. Staff also clarified that after the State Allocation Board (SAB) approved the regulation, it was amended as a result of a public comment made and the resulting regulation was difficult to interpret. Audience and Committee members suggested that clean-up regulations could be an option to make application of the 150 Percent rule clear. Staff suggested that revisions may be necessary and suggested aligning the SFP regulations with the provisions of EC Section 17071.75(b).

Audience and Committee members discussed the 60 Percent Commensurate requirement, expressing concern that it prevents school districts from retaining savings from State funded projects. It was suggested that allowing districts to receive excess funding and retain savings would allow districts to use the savings for other school construction projects, such as the addition of non-classroom facilities to existing sites that need them. Staff stated that the 60 Percent Commensurate requirement was approved by the SAB specifically out of concern for excessive savings, and the requirement allows for up to 40 percent of project costs to be soft costs, based on the cost estimate prepared by the Architect of Record at the time the funding application is submitted.

An audience member inquired whether a district that had met the 60 Percent Commensurate requirement at the time of apportionment would be penalized at the time of audit if the bid climate changed creating actual costs which were considerably less than the estimated costs. One audience member suggested that Financial Hardship districts should be able to keep savings in cases where bid climates become more favorable after funding. Staff responded by stating that keeping savings are not allowed for Financial Hardship districts, and that the OPSC is aware of the importance of ensuring that districts who meet the 60 Percent requirement at the time of application processing are not penalized unjustly at the time of audit. Staff also noted that the OPSC auditors take into account the actual percentage of construction costs of a project compared to the estimate as a potential indicator of audit issues.

Concerns were raised about the interaction and perceived conflict between the 60 Percent requirement and the 150 Percent rule. A Committee member stated that in the cases of low cost projects, districts are forced to reduce the pupil grants and/or supplemental grants requested to meet the 60 Percent requirement, and the reduced pupil grant request triggers an adjustment to the district's baseline eligibility if the pupil capacity of the project is greater than 150 percent of the pupil grant request. Audience members requested that this issue be included in a continued discussion at a future Committee meeting. Staff agreed to bring a continued discussion item back to a future Committee meeting.

Next Steps:

An item for continued discussion on this topic will be presented at the next Implementation Committee meeting.

Facility Inspection Tool

Overview:

OPSC staff member Jon Hicks presented the proposed revisions and amendments to the Facility Inspection Tool (FIT).

Staff explained that the scoring system used on the FIT had a positive bias, and proposed that it be revised to more accurately reflect school conditions noted by inspectors.

Discussion Points:

A Committee member stated that the original FIT and the current proposed revisions resulted from a collaborative process by a workgroup involving several county offices of education, the American Civil Liberties Union, and the OPSC, who have been working together since the first days of the Williams Settlement.

A Committee member inquired whether the workgroup supported the proposed revisions. An audience member who was part of the workgroup stated that these revisions were recommended after extensive research by the workgroup and contributions from some of the largest counties, and that the revisions were essentially a recalibration to the FIT that would not require any retraining of inspectors. A Committee member stated that the workgroup was very cautious of negative ratings during the implementation of the original FIT, and that this inadvertently led to a positive bias in the scoring system.

An audience member asked if emergency regulations were needed to get these revisions implemented more quickly. A Committee member stated that these revisions are not part of the regulatory process, since the FIT is simply a template provided by the OSPC. It was noted that while districts must inspect the components listed on the FIT, they are not required to use this exact template.

A Committee member complimented the process by which these revisions were implemented, specifically the transparency of the process and the inclusion of stakeholders in the process. An audience member stated that a more realistic representation of facility conditions can be beneficial for improvements because positive bias can be detrimental to receiving funding in the future, and more accurately reporting school conditions will help to improve communication of what needs schools have.

Next Steps:

This item will be presented at the next SAB meeting.

Adjournment and Next Meeting

The meeting adjourned at 3:14 p.m. The next IMP meeting is scheduled for Friday, June 5, 2009 at 9:30 a.m. and will be held at the Legislative Office Building located at 1020 N Street, Room 100, Sacramento, California.

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE
June 5, 2009

150 Percent Regulation/
60 Percent Commensurate Requirement

PURPOSE

To continue discussion of the 150 Percent Regulation and the 60 Percent Commensurate Requirement (SFP Regulation Section 1859.51(i)(7) and Part 22 of the *Application for Funding* (Form SAB 50-04)).

BACKGROUND

At the May 1, 2009 Implementation Committee meetings, the Committee requested a continued discussion of the 150 Percent Regulation and the 60 Percent Commensurate Requirement.

Overview of Staff's Presentation

Office of Public School Construction (OPSC) Staff began the discussion by presenting a brief overview of new construction eligibility and two major legislative bills and the corresponding regulatory amendments that established how the new construction eligibility was calculated. (Senate Bill (SB) 50 – Greene (Chapter 407, Statutes of 1998) and Assembly Bill (AB) 695 – Mazzoni (Chapter 858, Statutes of 1999)). Staff emphasized how AB 695 amended the Education Code (EC) to require an ongoing accounting of facilities provided from any State or local funding source, based on the pupil loading formula set forth in EC Section 17071.25.

Staff explained how the 150 Percent Regulation, which was approved by the State Allocation Board (SAB), was included as a part of the overall regulation package to implement AB 695. The 150 Percent Regulation allows certain classrooms constructed in a School Facility Program (SFP) project to be excluded from being counted in a school district's ongoing inventory. Using two examples, Staff clarified how the 150 Percent Regulation is currently being applied.

After discussing the 150 Percent Regulation, Staff opened a discussion of the 60 Percent Commensurate Requirement, which was created to uphold the statutory requirement of EC Section 17072.30(a), which stipulates that districts must match State funds "in an amount at least equal to the proposed apportionment." A district's Architect of Record is required to demonstrate that the proposed construction costs in a new construction project are at least 60 percent of the combined State and local funding for the project.

Discussion

Staff noted the following issues raised during the meeting that the Committee may wish to continue discussing:

Q: Should the adjustments for added classroom capacity beyond 150 percent of the pupil grants requested be made at the time of project funding or during the audit of the project?

OPSC Analysis: The adjustment for added classroom capacity beyond 150 percent of the pupil grants requested should be made at the time of project apportionment.

- Ensures that districts are aware of their new construction eligibility so that projects can be planned accordingly.
- Avoids leaving "phantom" eligibility in school districts' baselines that would show a need to build additional classroom capacity that does not exist.
- SFP projects can take up to seven years to be completed.

- AB 695 requires an accurate accounting of school districts' facilities needs (based on the State classroom loading standards). Statute requires that the new construction baseline eligibility be reduced by the number of pupils housed in any State or locally funded project.

Q: Should the existing regulation, which is difficult to interpret, be rewritten to be aligned with EC Section 17071.25(b)?

OPSC Analysis: SFP Regulation Section 1859.51(i)(7) is misaligned with the existing Statute and the SAB may consider approving a revision to the Regulation to meet the provisions of EC Section 17071.25(b). As an alternative, the SAB may consider approving a revision to clarify the Regulation.

Option 1:

- Revise SFP Regulation Section 1859.51(i)(7) to be aligned with the provisions of EC Section 17071.75. The Option 1 revision to the SFP regulation aligns the Regulations with EC Section 17071.75 for bond accountability. The baseline would accurately reflect the district's housing needs and the State's liability to provide 50 percent of the necessary funding to house a school district's pupils.
- Under Option 1, districts lose the flexibility to preserve eligibility in their baseline for up to 150 percent of the capacity of an SFP project.

Option 1:

Section 1859.51. Adjustments to the New Construction Baseline Eligibility.

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

- (a) ~~Reduced by the number of pupils provided grants in a new construction SFP project and by the number of pupils that received a Preliminary Apportionment pursuant to Section 1859.140 or a Preliminary Charter School Apportionment pursuant to Section 1859.162.2.~~ in accordance with Education Code Section 17071.75(b).
- ...
- (i) Reduced by the number of pupils housed, based on loading standards pursuant to Education Code Section 17071.25(a)(2)(A), in any Classroom Provided after the baseline eligibility was determined by the Board with the exception of those pupils housed or to be housed in a classroom:
 - ...
 - ~~(7) That is included in a SFP project where the district has funded a portion of the project beyond its required district contribution and the pupil capacity of the classroom does not exceed 150 percent of the number of pupils receiving a new construction grant (rounded up) for the SFP project.~~
 - ...
 - (s) Reduced by the number of pupils that received a Preliminary Apportionment pursuant to Section 1859.140 or a Preliminary Charter School Apportionment pursuant to Section 1859.162.2.

Option 2:

- Revise SFP Regulation Section 1859.51(i)(7) to clarify the existing Regulation. After the SAB initially approved the 150 percent regulation in January 2000, the language was revised during the public comment period. The resulting language created confusion as to the interpretation of the regulation. At the October 2008 SAB meeting, the OPSC provided the SAB with the existing interpretation of the 150 percent regulation.
- This revision to Regulation Section 1859.51(i)(7) restores the section of regulation approved by the SAB in January 2000 and aligns Section 1859.51(a) to meet the provisions of the EC.

Option 2:

Section 1859.51. Adjustments to the New Construction Baseline Eligibility.

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

- (a) Reduced by the number of pupils provided grants in a new construction SFP project and by the number of pupils that received a Preliminary Apportionment pursuant to Section 1859.140 or a Preliminary Charter School Apportionment pursuant to Section 1859.162.2.
...
- (i) Reduced by the number of pupils housed, based on loading standards pursuant to Education Code Section 17071.25(a)(2)(A), in any Classroom Provided after the baseline eligibility was determined by the Board with the exception of those pupils housed or to be housed in a classroom:
...
- (7) That is included in a SFP project ~~where the district has funded a portion of the project beyond its required district contribution~~ and the pupil capacity of the classroom does not exceed 150 percent of the number of pupils receiving a new construction grant (rounded up) for the SFP project.

Q: Does the EC Section 17071.75 provide authority for school districts to preserve eligibility in the baseline for other purposes, such as Minimum Essential Facilities (MEF)?

OPSC Analysis: The EC section requires an ongoing accounting of the number of pupils for whom facilities were provided from any State or local funding source according to the State loading standards for classrooms. K-6 classrooms are loaded at 25 pupils, 7-12 classrooms are loaded at 27 pupils, Special Day Class non-severe and severe classrooms are loaded at 13 and 9 pupils, respectively. The baseline eligibility must be reduced based on the number of pupils housed.

- Districts may incorporate MEFs in their new construction projects. However, there is no provision in the Statute for districts to preserve eligibility.
- The existing 150 percent regulation allows districts to preserve eligibility for up to 150 percent of the capacity of an SFP project. Regulation Section 1859.77.3 allows districts with inadequate MEF facilities to request a “Use of Grants” to divert their available pupil grants towards constructing an adequate MEF.

Q: Does the 150 percent regulation penalize small school districts that only have a local match to build portable classrooms, where the 60 percent commensurate requirement forces them to lower the grants requested?

OPSC Analysis: The 150 percent regulation provides flexibility to school districts so that they may request fewer pupil grants than the actual capacity of an SFP project. Under this regulation, they may preserve eligibility for up to 150 percent of the project’s capacity (rounded up).

- EC Section 17071.75 does not provide flexibility for preserving eligibility. It requires that the baseline eligibility be reduced directly based on the number of classrooms constructed in a SFP project. There is a concern that the 150 percent regulation may be misaligned with this statute.
- The SAB approved the 150 percent regulation to grant all districts flexibility when planning an SFP project. Eligibility in the baseline is preserved, and the small district may request a “Use of Grants” to construct a MEF if there is an inadequate facility.

Relationship Between the 60 Percent Commensurate Requirement and the 150 Percent Rule

- Committee members requested a discussion to determine whether there is a conflict between the 150 percent regulation and the 60 percent commensurate requirement.

Following are examples of actual projects where the 150 Percent Rule was applied:

Example 1:

In this example, the District lowered its pupil grant request in order for the project to meet the 60 Percent Commensurate requirement. A resulting 150 percent adjustment was necessary because the actual number of students housed was 135.

Information taken from original *Application for Funding* (Form SAB 50-04) submittal:

Scope of Project	Add five relocatable single-room classroom buildings to an existing high school site.
Pupil Capacity of Project	135 high school students
Estimated Cost of Project	\$594,393
Pupil Grants Requested/Corresponding State Plus District Match	42 grants/ \$1,040,220
60 Percent Commensurate	\$594,393 < (60%) (\$1,040,220) Fail

A 15-day letter was mailed to the District presenting options for passing the 60 Percent Commensurate test.

Option 1: Lower the pupil grants requested to 39 pupils so that the project is 60 Percent Commensurate.

Option 2: Lower the Excessive Cost Hardship Grants requested.

Option 3: Add to the scope of the project. The District could possibly add additional core facilities that are needed or redesign the project to build permanent classrooms. (The District would need to withdraw the application and resubmit once the new plans are approved by the Division of the State Architect.)

In addition, the 15-day letter addressed that the classroom capacity of the project exceeded 150 percent of the pupil grants requested (rounded up) and therefore an adjustment was required.

The District submitted a revised *Application for Funding* (Form SAB 50-04) lowering the pupil grants requested. Here is the information taken from the revised *Application for Funding* (Form SAB 50-04) submittal:

Scope of Project	Add five relocatable single-room classroom buildings to an existing high school site.
Pupil Capacity of Project	135 high school students
Estimated Cost of Project	\$594,393
Pupil Grants Requested/Corresponding State Plus District Match	39 grants/ \$988,234
60 Percent Commensurate	\$594,393 > (60%) (\$988,234) Pass

The project now passed the 60 Percent Commensurate test. However, the pupil capacity of the project (135) was greater than 150 percent of the pupil grants requested (39). Therefore, the following adjustment was made by the SAB for the added capacity beyond 150 percent of the pupils requested.

39 pupil grants requested x 150 percent = 58.5

58.5 divided by 27 = 2.17 classrooms. This number is rounded up to 3 classrooms, which is the maximum the District could build without accounting for the additional capacity.

5 minus 3 = 2 classrooms of additional capacity.

2 multiplied by 27 = 54 pupil grants

The District's eligibility is reduced by the 39 pupil grants claimed plus an additional 54 pupil grants for a total of 93 pupil grants.

Because the actual capacity of the project is 135 students, the 150 Percent Rule allowed the District to "preserve" 42 pupil grants in its baseline eligibility, including the additional three pupil grants the district preserved by lowering its request from 42 to 39 pupil grants.

Example 2:

This example shows a district with four projects that required a 150 percent adjustment.

- The table illustrates the magnitude of the savings generated if the 60 Percent Commensurate Requirement were not in place. If not for this regulation, low cost projects would violate EC Section 17072.30(a) and the districts' matching share requirement would not be met. Further, there would be a strong economic incentive for districts to opt to use portable classrooms to generate savings to apply to other projects.
- The District provided additional capacity greater than 150 percent of the pupil grants requested. The chart also illustrates the 150 percent adjustment that was made to the District's new construction baseline eligibility.

Class-rooms in Project	With 60 % Commensurate Regulation				Without 60 % Commensurate Regulation		
	Pupils Requested	State Plus District Matching Share	Capacity Overbuilt	Pupil Grants Charged for 150 Percent Adjustment	Pupils Requested (Based on Pupils Housed)	State Plus District Matching Share	Savings
4	29	\$793,456	345%	50	100	\$2,096,078	\$1,302,622
3	32	\$770,574	234%	25	75	\$1,558,848	\$788,275
8	65	\$1,398,170	308%	100	200	\$3,683,520	\$2,285,350
4	48	\$1,091,650	208%	25	100	\$2,048,772	\$957,122
Totals:							\$5,333,368

AUTHORITY

Chapter 407, Statutes of 1998 (SB 50 – Greene) enacted the Leroy F. Greene School Facilities Act. EC Section 17071.75 established how new construction eligibility is generated and maintained.

Chapter 858, Statutes of 1999 (AB 695 – Mazzoni) amended EC Section 17071.75 to require that all classrooms “provided from any State and Local funding source after the existing school building capacity is determined” be added to a district’s capacity. The bill required reductions to be made from a district’s eligibility for any classrooms that were State funded or locally funded after the baseline was established.

The SAB has the authority to establish regulations in its administration of the SFP under the rulemaking provisions of the California Administrative Procedure Act in accordance with State and federal constitutional requirements of due process and equal protection- requiring fairness and rationality. Such regulations must be consistent with, and comply with, statutes granting that authority.

SFP Regulation Section 1859.51 authorizes adjustments to the new construction baseline eligibility.

The *Application for Funding* (Form SAB 50-04), which is a part of the SFP Regulations, requires the project’s architect to certify that the estimated construction cost of the work in the plans and specifications “is at least 60 percent of the total grant amount provided by the State and the district’s matching share, less site acquisition costs. This cost estimate does not include site acquisition, planning, tests, inspection, or furniture and equipment...”

EC Section 17070.63 stipulates that the total funding provided shall constitute the state’s full and final contribution to the project and for eligibility for state facilities funding represented by the number of unhoused pupils for which the school district is receiving that state grant. As a condition of receipt of funds, a school district shall certify that the grant amount, combined with local funds, shall be sufficient to complete the school construction project for which the grant is intended. Any savings achieved by the district’s efficient and prudent expenditure of these funds shall be retained by the district in the county fund for expenditure by the district for other high priority capital outlay purposes.

EC Section 17072.30(a) states that subject to the availability of funds, and to the determination of priority pursuant to Section 17072.25, if applicable, the board shall apportion funds to an eligible school district only upon the approval of the project by the Department of General Services pursuant to the Field Act, as defined in Section 17281, and certification by the school district that the required 50 percent matching funds from local sources have been expended by

the district for the project, or have been deposited in the county fund, or will be expended by the district by the time the project is completed, in an amount at least equal to the proposed apportionment pursuant to this chapter, prior to release of the state funds.

EC Section 17072.20(a) stipulates that an applicant school district that has been determined by the board to meet the eligibility requirements for new construction funding set forth in Article 2 (commencing with Section 17071.10) or Article 3 (commencing with Section 17071.75) may submit at any time a request to the board for a project apportionment for all or a portion of the funding for which the school district is eligible.

Attachment

The chart below shows a side by side comparison of the EC and the resulting amended SFP Regulations.

	SENATE BILL 50	ASSEMBLY BILL 695
Education Code (EC) Section 17071.75	(b) Add the number of pupils that may be adequately housed in the existing school building capacity of the applicant district as determined pursuant to Article 2 (commencing with Section 17071.10) to the number of pupils for which facilities were provided pursuant to this chapter after the existing school building capacity was determined pursuant to Article 2 (commencing with Section 17071.10).	b) Add the number of pupils that may be adequately housed in the existing school building capacity of the applicant district as determined pursuant to Article 2 (commencing with Section 17071.10) to the number of pupils for which facilities were provided from any state or local funding source after the existing school building capacity was determined pursuant to Article 2 (commencing with Section 17071.10). For this purpose, the total number of pupils for which facilities were provided shall be determined using the pupil loading formula set forth in EC Section 17071.25.
SFP Regulation Section 1859.51	<p>The baseline eligibility for new construction... will be adjusted as follows:</p> <p>a) Reduced by the number of pupils provided in a new construction SFP project.</p> <p>(b) Reduced by the number of pupils housed, based on the loading standards pursuant to EC Section 17071.25(a)(2), in a new construction LPP project funded under the provisions of the LPP pursuant to Sections 1859.12 or 1859.13.</p> <p>(c) Reduced by the number of pupils housed in additional classrooms constructed or purchased based on the loading standards, pursuant to EC Section 17071.25(a)(2), in a modernization SFP project.</p>	<p>The baseline eligibility for new construction... will be adjusted as follows:</p> <p>(a) Reduced by the number of pupils provided grants in a new construction SFP project and by the number of pupils that received a Preliminary Apportionment pursuant to Section 1859.140 or a Preliminary Charter School Apportionment pursuant to Section 1859.162.2.</p> <p>(b) Reduced by the number of pupils housed, based on the loading standards pursuant to Education Code Section 17071.25(a)(2)(A), in a new construction LPP project funded under the provisions of the LPP pursuant to Sections 1859.12 or 1859.13.</p> <p>(i) Reduced by the number of pupils housed, based on loading standards pursuant to Education Code Section 17071.25(a)(2)(A), in any classroom provided after the baseline eligibility was determined by the Board with the exception of those pupils housed or to be housed in a classroom:</p> <p>(7) That is included in a SFP project where the district has funded a portion of the project beyond its required district contribution and the pupil capacity of the classroom does not exceed 150 percent of the number of pupils receiving new construction grants (rounded up) for the SFP project.</p>

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE
June 5, 2009

ANALYSIS OF PROJECT INFORMATION WORKSHEET DATA

PURPOSE

To outline the methodology for analyzing project data provided via the Project Information Worksheet (PIW).

BACKGROUND

School Facility Program (SFP) Regulation Section 1859.71 implementing Education Code (EC) Section 17072.11 stipulates that "The new construction per-unhoused-pupil grant amount, as provided by EC Section 17072.10(a), may be increased by an additional amount not to exceed six percent in a fiscal year, or decreased, based on the analysis of the current cost to build schools as reported on the Project Information Worksheet (New 09/07) which shall be submitted with the Forms SAB 50-05 and 50-06 and as approved by the Board."

On January 30, 2008, the State Allocation Board (SAB) approved the Final Adoption of the regulatory amendment and the PIW. The original effective date of the PIW form and regulations was July 10, 2008.

The PIW is used to collect information necessary to conduct an analysis of the relationship between the per-unhoused-pupil grant amount and the per-pupil cost of new school construction for grades K-12 pursuant to EC Section 17072.11, and to meet the requirements for bond accountability. School districts are required to submit a PIW when they submit a *Fund Release Authorization* (Form SAB 50-05) for all new construction projects requesting a 100 percent fund release, and when they submit the first annual and final *Expenditure Reports* (Form SAB 50-06) for all new construction projects after receiving the full fund release.

A copy of the PIW has been attached for reference.

AUTHORITY

EC Section 17072.10:

(a) The board shall determine the applicant's maximum total new construction grant eligibility by multiplying the number of unhoused pupils calculated pursuant to Article 3 (commencing with Section 17071.75) in each school district with an approved application for new construction, by the per-unhoused-pupil grant as follows:

- (1) Five thousand two hundred dollars (\$5,200) for elementary school pupils.
- (2) Five thousand five hundred dollars (\$5,500) for middle school pupils.
- (3) Seven thousand two hundred dollars (\$7,200) for high school pupils.

(b) The board shall annually adjust the per-unhoused-pupil apportionment to reflect construction cost changes, as set forth in the statewide cost index for class B construction as determined by the board.

(c) Any regulations adopted by the board prior to July 1, 2000, that adjust the amounts identified in this section for qualifying individuals with exceptional needs, as defined in Section 56026, as amended after July 1, 2000, in consideration of the recommendations provided pursuant to Section 17072.15, shall continue in effect.

(d) The board may establish a single supplemental per-unhoused-pupil grant in addition to the amounts specified in subdivision (a) based on the statewide average marginal difference in costs in instances where a project requires multilevel school facilities due to limited acreage. The district's application shall demonstrate that a practical alternative site is not available.

(e) For a school district having an enrollment of 2,500 or less for the prior fiscal year, the board may approve a supplemental apportionment of up to seven thousand five hundred dollars (\$7,500) for any new construction project assistance. The amount of the supplemental apportionment authorized pursuant to this subdivision shall be adjusted in 2008 and every year thereafter by an amount equal to the percentage adjustment for class B construction.

(f) This section is operative January 1, 2008.

EC Section 17072.11:

(a) All of the following shall apply on and after July 1, 2006:

(1) The per-unhoused-pupil grant eligibility determined under paragraphs (1) and (2) of subdivision (a) of Section 17072.10 shall be increased by 7 percent.

(2) The per-unhoused-pupil grant eligibility determined under paragraph (3) of subdivision (a) of Section 17072.10 shall be increased by 4 percent.

(3) The board shall conduct an analysis of the relationship between the per-unhoused-pupil grant eligibility determined under this article and the per-pupil cost of new school construction for elementary, middle, and high school pupils.

(b) On or after January 1, 2008, the board shall increase or decrease the per-unhoused-pupil grant eligibility determined pursuant to subdivision (a) by amounts it deems necessary to cause the grants to correspond to costs of new school construction, provided that the increase in any fiscal year pursuant to this section shall not exceed 6 percent.

DISCUSSION

Proposed Methodology

At the April and May 2009 Implementation Committee meetings, Staff proposed a number of options to be included in the methodology for the analysis of the relationship between the SFP grants and cost of construction. From those discussions the following framework has been developed:

Step 1: Determining usable PIWs

Forms will need to be checked to ensure they have been filled out in a manner consistent with the instructions. Staff made a preliminary attempt to call a sample of districts to determine the time required to contact school districts for any PIW requiring a correction. Initial attempts showed that an extensive amount of time will be required for districts to research the identified issues and respond to the OPSC because in many cases there has been an extended lapse in time since original submittal. Therefore, Staff will not be contacting districts during this first PIW analysis round; however, Staff has implemented additional instruction clarifications on the online PIW form to help avoid the errors. In addition, a triage system is being set up to capture and correct errors as the PIWs are received.

For this first analysis, the following PIWs will be excluded:

1. Forms where a district has indicated an incorrect State contribution amount where the amount is more than 10 percent less than or 5 percent more than the correct amount. [Both the State Share (50 percent amount) and State Apportionment (State Share plus Financial Hardship) will be considered].
2. Any form that has an obvious data entry error (for example, the project was funded for Site Acquisition, but the PIW does not contain a dollar amount in that section).
3. Incomplete forms where the missing information is required for analysis, such as project cost information and square footage amounts.

4. PIWs where the reporting differs by more than five classrooms, which could be because of a data error or a district reporting information for a different project.

Staff will utilize the most recent versions of each project's information (for example, a district that submitted a PIW for the first Form SAB 50-06 would have the Form SAB 50-05 PIW excluded, or if a revised version of the most recent PIW is submitted, the previous PIW will be excluded)

Step 2: Adjustments

For this initial analysis the following fields will be recalculated by Staff:

Project Funding

2a – Total Amount of State Apportionment(s)

2c – Total District Match

Project Costs

2c – Total Construction Cost

8 – Total Project Cost

Project Information

Total Square Footage Amounts

Total Building Cost (Per Square Foot)

Step 3: Grade/Project Breakdown

Projects will be divided into four categories; K-6 projects, 7-8 projects, 9-12 projects and SDC only projects. The following adjustments will be made to the sample:

- SDC only projects will be excluded.
- PIWs that include Joint-Use funding will be included in the analysis.
- PIWs that represent projects funded by multiple grade categories will be excluded from the individual category studies, but will be utilized when showing the overall accuracy of the grants and the effects any proposed changes will have. However, projects that received funding for K-6 and 7-8 pupil grants will be included in the 7-8 study if all K-6 grants were funded as 6th grade pupils in a 6-8 project, as indicated on the *Application for Funding* (Form SAB 50-04).
- Type A [borrowing for Minimum Educational Facilities (MEFs)] Use of Grants will be excluded.
- Type B (borrowing from a grade category to build classrooms for another) Use of Grants will be excluded.
- At the May 2009 Implementation Committee meeting, Staff requested input about whether PIWs for projects that under-request pupil grants should be considered for analysis, and whether their grant requests should be adjusted to reflect what could have been requested. Based on input, Staff is proposing to include all under-requested projects without any adjustment.

Step 4: Financial Hardship Projects

Projects that received Financial Hardship assistance at adjusted grant funding will be excluded from the sample. Concern was expressed at the April and May 2009 Implementation Committee meetings that districts that receive Financial Hardship assistance for the adjusted grant may adjust their construction plans, by not including additional facilities or in material choices, in order to "fit" the project to the apportioned funds. This will provide an artificial picture of ideal 50 percent State funding as districts adjust their projects to meet the requirements of the Financial Hardship program.

Projects that only received Financial Hardship assistance during Site and/or Design funding will be included in the sample. During the discussion at the May 2009 Implementation Committee meeting, concerns were expressed that districts which receive the initial Financial Hardship approvals will still plan and design a project based on Financial Hardship limitations. It was also pointed out that a district that has received the initial financial hardship approvals may plan not only a project that meets Financial Hardship requirements but may also include additional, optional facilities that could be included once a district has additional funding available.

Step 5: Square Footage Cost Comparison

At the April 2009 Implementation Committee, an audience member presented a suggestion for determining the recommendation for the per-unhoused-pupil adjustment that utilized the year-to-year change in the square footage costs for construction projects.

In summary, the proposed method, involves separating the data based on the year of funding. The cost per square foot would be determined by dividing the project cost amount by the total square feet in the project. The average cost per square foot for all projects in a particular year would be compared against the average cost per square foot for projects in the previous year to determine the average percent change. This difference, after taking into account the yearly Construction Cost Index (CCI) increase, would be used in determining if an increase or decrease to the grant should be recommended to the SAB for the following year. These calculations would be done at each of the three grade categories. To account for projects that may greatly skew the results, projects that are three or more standard deviations from the mean would be excluded from the analysis.

Concerns were expressed that this approach was too similar to the normal yearly CCI adjustment. This method restricts the comparison to the per-square foot cost and does not analyze the relationship between actual costs and State funding provided. Staff proposes adapting the idea by including another series of steps where each project's individual per-square foot cost is compared to its per-square foot funding level. The equations used in the comparison would be as follows:

Using the information provided on the PIW and original funding approval, divide the total State apportionment less Financial Hardship and site acquisition by the total square feet in the project. The formula would be the following (PIW section and line items indicated in italics):

$$\text{Funding Per-Square Foot} = \frac{\text{-SAB Approval- Total apportionment(s)} - \text{-SAB Approval- Financial hardship} - \text{-SAB Approval- Site acquisition cost}}{\text{Most recent square footage total}} \\ \text{-Project Information: Component Types-}$$

Using the information provided on the PIW, divide the total project cost by the total square feet in the project. The formula would be the following (PIW section and line items indicated in italics):

$$\text{Construction Cost Per-Square Foot} = \frac{\text{-Costs 8- Total project cost}}{\text{Most recent square footage total}} \\ \text{-Project Information: Component Types-}$$

Step 6: Bell Curve Comparison

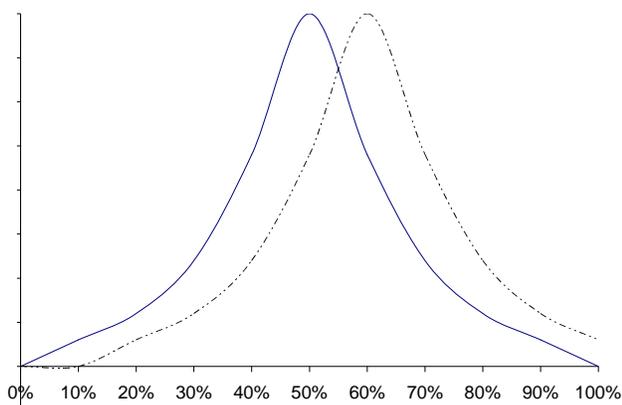
At the May 2009 Implementation Committee meeting, Staff proposed a data comparison method that involved plotting the funding data on a bell curve based on relationship between SFP funding and project costs. The proposal contained two calculation methods. Both methods removed site acquisition costs and one method removed site development costs. During the discussion, concerns were expressed that in some contracts it may be hard to determine what portion of the contract is designated for the site development work. Due to this complication, Staff will be proceeding with the following calculation for determining the relationship between SFP funding and project costs:

Using the information provided on the PIW and original funding approval, divide the total State apportionment less Financial Hardship and site acquisition by the total project cost. The formula would be the following (PIW section and line items indicated in italics):

$$\frac{\text{-SAB Approval- Total apportionment(s) - Financial hardship - Site acquisition cost}}{\text{Total project cost - Costs 8-}}$$

Once the percentage levels have been plotted, assuming the data represents a normal distribution, the peak of the curve will be located on the data set's average. The SAB could use the distribution of the data to determine, as policy, how far and in which direction the curve would be shifted.

In the following example, the data reflects an average of 50 percent funding. This shows a small portion of 50 percent funded projects, with the rest being equally distributed on either side, representing over and under funded projects. The SAB, using this distribution of State share funding project costs, may decide that it wishes to raise the per-unhoused-pupil amount until all but 30 percent of the projects are funded at least by 50 percent from State bond funds. This would see a shift of the average beyond the 50 percent mark. It must be noted, that while this may bring another 20 percent of projects into the desired funding range, it also pushes all projects above further into an over-funding level.



Additional Information

Projects will not be separated by construction type (permanent, modular or portable) when determining the final grant adjustment recommendation, but the effects of each on the adequacy of the grant will be investigated.

Projects will not be separated by project type (new site or addition to existing site) when determining the final grant adjustment recommendation, but the effects of each on the adequacy of the grant will be investigated.

Projects will not be separated by percent completed when determining the final grant adjustment recommendation, but the effects of projects below 95 percent completion rate will be investigated.