

INITIAL STATEMENT OF REASONS

Section 1859.2. Definitions.

Specific Purpose of the Regulation

To provide the meaning of specific words and terms that are essential to these regulations.

Need for the Regulation

To change the revision date of Form SAB 50-04, *Application for Funding*, to reflect a revision date of "10/11," in order that School Facility Program (SFP) applicants can identify and file the current version of this Form.

SCHOOL FACILITY PROGRAM FORM

Application for Funding, Form SAB 50-04 (Revised 10/11).

Specific Purpose of the Form

The purpose of the proposed amendments is to clarify Section 6 of the Specific Instructions and Section 6 of the Form where a Charter School Facilities Program (CSFP) rehabilitation project enters the number of points for its request for the additional grant identified as High Performance Incentive (HPI) Grant Program funding. It was also necessary to clarify that subsections 6.a., 6.c. and 6.e. do not apply to CSFP rehabilitation projects.

Need for the Form

Form SAB 50-04 is submitted by school districts and charter schools to apply for State funding for new construction or modernization projects, including additional grants as set forth in the SFP Regulations. In May 2007, the Office of Administrative Law (OAL) approved SFP Regulation changes that introduced CSFP rehabilitation projects and incorporated this category of project into the Form SAB 50-04. When the rehabilitation component of the CSFP was implemented, it was modeled so that the type of work allowable in a CSFP rehabilitation project was substantially identical to SFP modernization work. In October 2007, the OAL approved SFP Regulation changes that incorporated the HPI grant option into the Form SAB 50-04. It was an inadvertent oversight at that time for the Form SAB 50-04 to omit instructions and data fields for the HPI grant for CSFP rehabilitation projects. The proposed amendments remedy that oversight by clarifying the instructions and data fields for the benefit of future CSFP rehabilitation project applicants.

CSFP rehabilitation projects were authorized by Assembly Bill (AB) 127, Chapter 35, Statutes of 2006 (Perata/Nunez), and funded in the Proposition 1D school bond measure which was approved by voters at the November 7, 2006 general election. Regulation Section 1859.2 defines "CSFP Rehabilitation" as "work that includes, but will not be limited to, structural changes or other types of work on an existing district facility that extends the useful life of or enhances the physical environment of the school."

AB 127 and Proposition 1D also authorized up to \$100 million for school projects utilizing "high performance" components improving energy, water use, natural lighting, air quality, use of recycled and low-toxin materials, and learning-enhancing acoustics for construction projects. See Education Code Sections 17070.96 and 101012(a)(8).

EC Section 101012(a)(8) authorizes “The amount of one hundred million dollars (\$100,000,000) for incentive grants to promote the use of designs and materials in new construction and modernization projects that include the attributes of high-performance schools, including, but not limited to, the elements set forth in Section 17070.96, pursuant to regulations adopted by the State Allocation Board.”

The proposed Form amendments facilitate the funding application process for the above Legislative purposes, and are therefore reasonably necessary to carry out those provisions by remedying the omission of instructions and data fields for CSFP rehabilitation project applicants.

No reasonable alternatives were considered for the proposed regulatory amendments because they are Form corrections that improve the funding application process for CSFP rehabilitation projects under the SFP which have no adverse economic impact on school districts, charter schools, businesses, including small businesses, and do not mandate the use of specific technologies, equipment, actions or procedures.

Pages 1 through 9, Heading. It was necessary to change the revision date of Form SAB 50-04 to reflect a revision date of “10/11,” in order that SFP applicants can identify and file the current version of this Form.

Page 4, Column 1, Paragraph 6. It was necessary to amend the title of this paragraph from covering “Modernization” projects to covering “Modernization or Charter School Facilities Program Rehabilitation” (CSFP) projects because CSFP rehabilitation projects since 2007 have been eligible to apply for the additional grant for HPI funding, but due to oversight the Form SAB 50-04 had omitted appropriate instructions and data fields for this category of projects. Paragraph 6 was the most appropriate place to add the CSFP rehabilitation project reference because the type of work allowable in this category of project is substantially the same as SFP modernization work.

Page 4, Column 1, Paragraph 6.a. It was necessary to add “(Not available for Charter School Facilities Program Rehabilitation)” because CSFP rehabilitation projects are not eligible for the project assistance described in this sub-paragraph.

Page 4, Column 1, Paragraph 6.c. It was necessary to add “(Not available for Charter School Facilities Program Rehabilitation)” because CSFP rehabilitation projects are not eligible for the additional grant described in this sub-paragraph.

Page 4, Column 1, Paragraph 6.e. It was necessary to add “(Not available for Charter School Facilities Program Rehabilitation)” because CSFP rehabilitation projects are not eligible for the additional funding described in this sub-paragraph.

Page 7, Column 1, Paragraph 6. It was necessary to amend the title of this paragraph from covering “Modernization” projects to covering “Modernization or Charter School Facilities Program Rehabilitation” (CSFP) projects because CSFP rehabilitation projects since 2007 have been eligible to apply for the additional grant for HPI funding, but due to oversight the Form SAB 50-04 had omitted appropriate instructions and data fields for this category of projects. Paragraph 6 was the most appropriate place to add the CSFP rehabilitation project reference because the type of work allowable in this category of project is substantially the same as SFP modernization work. The words “Modernization Only” were deleted for the same reason.

Technical Documents Relied Upon

The State Allocation Board's Action item, dated October 26, 2011, entitled "Charter School Facilities Program Rehabilitation Apportionment with High Performance."

The Economic Impact Assessment prepared pursuant to Government Code Section 11346.3(b).

Alternatives to the Proposed Regulatory Action that would be as Effective and Less Burdensome to Private Persons

The SAB finds that no alternatives it has considered would be more effective in carrying out the purpose of the proposed regulation or would be as effective and less burdensome to affected private persons than the proposed regulation, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Alternatives to the Proposed Regulatory Action that would Lessen any Adverse Economic Impact on Small Business

The SAB has determined that the proposed regulation does not affect small businesses.

Finding of Significant Adverse Economic Impact on Businesses

The SAB has determined that the adoption of the regulation will not affect businesses, including small businesses, because they are not required to comply with or enforce the regulation, nor will they benefit from or be disadvantaged by the regulation.

Impact on Local Agencies or School Districts

The SAB has determined that the proposed regulation does not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies, school districts or charter schools to incur additional costs in order to comply with the proposed regulation.