

REPORT OF THE EXECUTIVE OFFICER  
State Allocation Board Meeting, September 19, 2012

MULTIPURPOSE ROOM/GYMNASIUM  
HYBRID USE OF GRANTS REQUESTS

PURPOSE OF REPORT

To present proposed regulations for Use of Grants (UOG) requests to fund construction of a Multipurpose Room (MPR)/Gymnasium Hybrid pursuant to School Facility Program (SFP) Regulation Section 1859.77.3.

DESCRIPTION

At the February 2012 meeting, the State Allocation Board (Board) directed Staff to bring a discussion to the State Allocation Board Implementation Committee related to the unique challenges faced by K-8 school districts, such as expansion of existing ancillary facilities to include two or more facilities within the same building structure.

Having discussed the issue at the June, July and August Board Implementation Committee meetings, Staff proposes amending the SFP Regulations (Attachment A) to provide square footage funding allowances specifically for MPR/Gym Hybrid facilities for districts making a UOG request.

AUTHORITY

See Attachment B.

BACKGROUND

***UOG Funding Requests***

Under the SFP, a school district's eligibility for new construction State funding is determined by a formula that projects the number of unhoused pupils and assigns available new construction pupil grants. These grants are used to construct new classrooms and other building necessary to house and facilitate projected new students or to relieve classroom overcrowding.

Pursuant to SFP Regulation Section 1859.77.3, school districts meeting specific requirements may also use these new construction pupil grants to construct an MPR, gymnasium, library, counseling offices and/or conference rooms instead of using them to fund new classrooms. As written, these regulations provide criteria to determine what types of facilities may be funded for schools serving elementary, middle, or high school students, and a formula to determine whether the square footage of an existing facility exceeds the threshold to qualify for State funding under the UOG option. The formula also identifies the maximum number of new construction grants that may be used to fund construction of these ancillary facilities instead of classrooms. However, the regulations did not anticipate hybrid facilities located within the same structure and sharing a portion of the square footage.

(Continued on Page Two)

BACKGROUND (cont.)

***Facilities Eligible for the UOG Option***

For the purpose of developing funding eligibility, the facility size is calculated using the chart in SFP Regulation Section 1859.77.3 for Alternative Education projects, and Section 1859.82 for all other projects. Eligible facilities under the UOG option only include:

- MPR
- Gymnasium (for High Schools and Middle Schools only)
- Library/Media Center
- Counseling and/or Conference Rooms (Alternative Education only)

***School Board Resolution***

Before a school district submits an application containing a UOG request to the Office of Public School Construction (OPSC), the district must adopt a school board resolution containing the following:

- An acknowledgement that funds for the purpose of housing the excess pupils are being diverted to another project.
- An acknowledgement that the State has satisfied its obligation to house the pupils receiving grants in the project, pursuant to SFP Regulation Section 1859.50.
- A plan outlined in the resolution that identifies how the district has housed or will house the pupils receiving grants in the project in school buildings, as defined in Education Code Section 17368. The plan must certify one of the following methods:
  - The district will construct or acquire facilities for housing the pupils with funding not otherwise available to the SFP as a district match, within five years of project approval by the Board, and the district must identify the source of the funds; or
  - The district will utilize higher district loading standards provided the loading standards are within the approved district's teacher contract, and do not exceed 33 students per classroom.

STAFF ANALYSIS/STATEMENTS

The proposed regulations were discussed at the June, July and August 2012 Board Implementation Committee meetings. The Implementation Committee reached a consensus on the proposed regulatory changes.

***Hybrids for MPR/Gym for Middle School and High Schools***

It appears that this issue is unlikely to occur for facilities other than MPR/Gym Hybrid buildings. A building that contains both gym space and library space, for example, could easily be calculated as separate facilities because they would serve clearly separate functions, and be separated by a wall. However, the floor space in an MPR may already be used for indoor physical education, so the addition of extra space to create full gym function would typically be considered an expansion to the MPR as opposed to building a gym.

(Continued on Page Three)

STAFF ANALYSIS/STATEMENTS (cont.)

K-6 sites are not eligible for a separate gym, so this issue would not impact elementary schools. However, it could occur at middle schools, high schools, or schools that combine grade levels.

At the June 2012 Board Implementation Committee meeting, Committee members and stakeholders indicated that some districts are moving to different grade level combinations besides K-8, making this a potential issue at school sites other than K-8. Therefore, the proposed regulation amendments would provide square footage amounts for MPR/Gym Hybrids for school sites with high school pupils and/or middle school pupils.

***Proposed Square Footage for MPR/Gym Hybrid***

The square footage amounts currently in SFP Regulations are based on square footage amounts provided for similar facilities for the Lease-Purchase Program (LPP). The proposed square footage amounts for an MPR/Gym Hybrid are a combination of (1) the square footages in the current regulations for a gymnasium, (2) the amount of square footage allowed for food service or kitchen under the LPP, and (3) the amount of square footage allowed for MPR mechanical/electrical under the LPP (food service would have mechanical and electrical needs beyond what would be required in a gymnasium).

Middle School MPR/Gym Hybrid

Gymnasium	12.9 square feet
Food Service	2.0 square feet
Mechanical/Electrical	<u>0.3 square feet</u>
Proposed Total MPR/Gymnasium Hybrid square footage per pupil	15.2 square feet

High School MPR/Gym Hybrid

Gymnasium	15.3 square feet
Food Service	3.0 square feet
Mechanical/Electrical	<u>0.3 square feet</u>
Proposed Total MPR/Gymnasium Hybrid square footage per pupil	18.6 square feet

The proposed minimum and maximum square footage amounts were calculated based on the number of pupils that would be required to meet the minimum and maximum square footage amounts for a gymnasium under current SFP regulations. This method was used to calculate the proposed minimum and maximum square feet for both middle school and high school hybrids, and is consistent with current regulations.

School sites with students at the middle school or high school levels would be eligible to have an MPR and a Gym, or an MPR/Gym Hybrid. The MPR/Gym Hybrid would be the equivalent of having both the MPR and Gym facilities.

Current UOG regulations refer to SFP Regulation Section 1859.82(b) for the per-square-foot funding amount, which is currently \$154. This is the 2012 per square foot amount for non-toilet facilities, including

(Continued on Page Four)

STAFF ANALYSIS/STATEMENTS (cont.)

multipurpose rooms and gymnasiums. Instead of continuing to reference an additional SFP regulation section, Staff proposes to include this amount directly in the UOG regulation to simplify the regulation. If the Board approves the next annual Class B Construction Cost Index (CCI) adjustment before the proposed regulations are approved by the Office of Administration Law (OAL), Staff will notify the OAL to increase the per square foot amount to be consistent with the square footage amount identified elsewhere in the SFP regulations.

The CDE discussed the issue with architects and school districts prior to the August Implementation Committee meeting, and then provided input to the OPSC on square footage amounts for the components of an MPR/Gym Hybrid. The CDE provided three examples of MPR/Gym Hybrids, including the square footage amount and number of pupils to be served. When comparing the proposed regulations to the CDE's data, the square footage amounts are comparable. Therefore, the proposed amounts are consistent with the intent of the regulations and with what some school districts are building for this type of facility.

***Method to Determine UOG Project Eligibility under Proposed Regulations***

Under existing regulations, districts may request funding under the UOG option for a new ancillary facility only if there is no existing facility of that type, or if the existing facility is less than 60 percent of the square footage allowance. Under the proposed regulations, the MPR/Gym Hybrid is considered the equivalent of both an MPR and a gym. Districts may convert an existing MPR or gym into an MPR/Gym Hybrid, as long as the end result is that the site has no more than one adequate MPR and one adequate gym.

At the Implementation Committee meetings, several members of the committee and the public expressed concern regarding the 60 percent threshold requirement. Specifically, that any facility that is less than the per pupil square foot regulatory allowance should be eligible for the UOG funding option. Staff does not propose changes to the 60 percent threshold calculation at this time.

RECOMMENDATIONS

1. Adopt the proposed regulations as shown on Attachment A and begin the regulatory process.
2. Authorize the Executive Officer to file the regulations with the Office of Administrative Law.
3. If the proposed regulations are not in effect by December 31, 2012, then the CCI adjustment for 2013 will be applied to the square foot amount in the proposed regulations.

This Item was approved by the State Allocation Board on September 19, 2012.

ATTACHMENT A

SCHOOL FACILITY PROGRAM REGULATORY AMENDMENTS

Section 1859.2. Definitions.

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"Multipurpose/Gymnasium Hybrid" means a single facility that is comprised of both a multipurpose room and a gymnasium that share common space for purposes of Section 1859.77.3. The facility must be identified as a Multipurpose/Gymnasium Hybrid by the California Department of Education.

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Section 1859.77.3. Use of New Construction Grant Funds for Projects Accepted by the DSA after January 22, 2003.

New Construction Grant funds and any other funds provided by these Regulations shall be expended as set forth in Education Code Section 17072.35; and may also be utilized for the cost incurred by the district for the development and implementation of remedial action plan approved by the DTSC pursuant to Education Code Section 17213.

Authorization for use of New Construction Grants for which the final plans and specifications for the project were accepted by the DSA after January 22, 2003 may be requested as follows:

- (a) A district may request new construction grants that exceed the capacity of the project based on loading standards pursuant to Education Code Section 17071.25(a)(2) and any loading standards adopted by the SAB by these regulations if the project is to construct a multipurpose, gymnasium, Multipurpose/Gymnasium Hybrid, and/or library, or for an Alternative Education school to construct a multipurpose/gymnasium, library, counseling offices, and/or conference rooms, at an existing site that does not have an existing or adequate facility of the type being requested when all of the following is met:
  - (1) The district must adopt a school board resolution that has been discussed at a public hearing at a regularly scheduled meeting of the district's governing board on a date preceding the application filing that includes the following:
    - (A) An acknowledgement that funds for the purposes of housing the excess pupils are being diverted to another project.
    - (B) An acknowledgement that the State has satisfied its obligation, pursuant to Section 1859.50, to house the pupils receiving grants in the project.
    - (C) A plan outlined in the resolution that identifies how the district has housed or will house the pupils receiving grants in the project in school buildings as defined in Education Code Section 17368. The plan must certify one of the following methods:
      - 1. The district will construct or acquire facilities for housing the pupils with funding not otherwise available to the SFP as a district match within five years of project approval by the SAB, and the district must identify the source of the funds; or
      - 2. The district will utilize higher district loading standards providing the loading standards are within the approved district's teacher contract and do not exceed 33:1 per classroom.
  - (2) The existing school site was not constructed under the SFP.
  - (3) The proposed project includes no more than eight classrooms.
  - (4) Grants requests, above 100 percent of the number of pupils to be housed, based on Special Day Class pupil eligibility are only permitted under this subsection (a) when building a Special Day Class facility.
  - (5) For purposes of this section, a Multipurpose/Gymnasium Hybrid is considered to be both a multipurpose and a gymnasium. A school site with middle school and/or high school pupils is eligible for one multipurpose and one gymnasium; therefore, if a school site has an adequate multipurpose and an adequate gymnasium, it is not eligible for a Multipurpose/Gymnasium Hybrid under this section.

(5)(6) For purposes of this section to determine if an existing facility is inadequate, the existing square footage is less than 60 percent of the square footage necessary for the current CBEDS for the site plus the Net School Building Capacity of the proposed project as calculated pursuant to Section 1859.82(b), except for Alternative Education Schools. For Alternative Education Schools, refer to the following:

ALTERNATIVE EDUCATION			
Support Facility	Existing Site Plus Proposed Project Contain 1 or 2 Classrooms	Existing Site Plus Proposed Project Contain 3 to 10 Classrooms *	Existing Site Plus Proposed Project Contain 11 or More Classrooms*
Multipurpose Facility or Gymnasium (includes food service)	2,500 sq. ft.	6.3 sq. ft. per pupil minimum 4,000 sq. ft.	6.3 sq. ft. per pupil minimum 7,200 sq. ft., maximum of 18,000 sq. ft.
Counseling Offices, and/or Conference Rooms	1,000 sq. ft. Combined Total	1,000 sq. ft.	1,000 sq. ft.
Library/Media Space		4.3 sq. ft. per pupil plus 600 sq. ft.	4.3 sq. ft. per pupil plus 600 sq. ft.

\* The proposed project cannot include more than eight classrooms.

(6) (7) The maximum excess pupil amount being requested for this type of use of grants request, is calculated by the following:

(A) Multiply the current CBEDS for the site plus the Net School Building Capacity for the proposed project by the square footage for the type of facility being requested, as follows: pursuant to Section 1859.82(b), except for Alternative Education Schools.

1. For Alternative Education Schools, refer to the chart above.

2. For a multipurpose room, gymnasium, and/or library, refer to the chart in Section 1859.82(b).

3. For a Multipurpose/Gymnasium Hybrid:

a. For school sites with middle school pupils, use 15.2 square feet per pupil, with a minimum of 8,056 square feet and a maximum of 18,848 square feet.

b. For school sites with high school pupils, use 18.6 square feet per pupil, with a minimum of 10,193 square feet and a maximum of 21,874 square feet.

(B) Multiply the product in (a)(6)(7)(A) above by the per square foot grant amount of \$154. for multipurpose, gymnasium or library facilities pursuant to Section 1859.82(b); utilize the same per square foot grant amount for the Alternative Education school facilities as shown in Section 1859.82(b). This per square foot grant amount will be adjusted in the manner prescribed in Section 1859.71.

(C) Divide the product in (a)(6)(7)(B) above by the New Construction Grant amount for the project grade level, rounded up to the nearest whole number.

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## ATTACHMENT B

### AUTHORITY

#### **Education Code Section 17070.35. Board's Duties**

(a) In addition to all other powers and duties as are granted to the board by this chapter, other statutes, or the California Constitution, the board shall do all of the following:

(1) Adopt rules and regulations, pursuant to the rulemaking provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, for the administration of this chapter. However, the board shall have no authority to set the level of the fees of any architect, structural engineer, or other design professional on any project. The initial regulations adopted pursuant to this chapter shall be adopted as emergency regulations, and the circumstances related to the initial adoption are hereby deemed to constitute an emergency for this purpose. The initial regulations adopted pursuant to this chapter shall be adopted by November 4, 1998. If the initial regulations are not adopted by that date, the board shall report to the Legislature by that date, explaining the reasons for the delay.

(2) Establish and publish any procedures and policies in connection with the administration of this chapter as it deems necessary.

(3) Determine the eligibility of school districts to receive apportionments under this chapter.

(4) Apportion funds to eligible school districts under this chapter.

(b) The board shall review and amend its regulations as necessary to adjust its administration of this chapter to conform with the act that amended this section to add this subdivision. Regulations adopted pursuant to this subdivision shall be adopted by November 5, 2002, and shall be adopted as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of any emergency regulation pursuant to this subdivision filed with the Office of Administrative Law shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, any emergency regulation adopted pursuant to this section shall remain in effect for no more than 365 days unless the board has complied with Sections 11346.2 to 11348, inclusive, of the Government Code.

#### **Education Code Section 17072.35. Use of new construction grant funds**

**17072.35.** A grant for new construction may be used for any and all costs necessary to adequately house new pupils in any approved project, and those costs may only include the cost of design, engineering, testing, inspection, plan checking, construction management, site acquisition and development, evaluation and response action costs relating to hazardous substances at a new or existing schoolsite, demolition, construction, acquisition and installation of portable classrooms, landscaping, necessary utility costs, utility connections and other fees, equipment including telecommunication equipment to increase school security, furnishings, and the upgrading of electrical systems or the wiring or cabling of classrooms in order to accommodate educational technology. A grant for new construction may also be used to acquire an existing government or privately owned building, or a privately financed school building, and for the necessary costs of converting the government or privately owned building for public school use. A grant for new construction may also be used for the costs of designs and materials that promote the efficient use of energy and water, the maximum use of natural lighting and indoor air quality, the use of recycled materials and materials that emit a minimum of toxic substances, the use of acoustics conducive to teaching and learning, and other characteristics of high performance schools.

Section 1859.77.3. Use of New Construction Grant Funds for Projects Accepted by the DSA after January 22, 2003.

New Construction Grant funds and any other funds provided by these Regulations shall be expended as set forth in Education Code Section 17072.35; and may also be utilized for the cost incurred by the district for the development and implementation of remedial action plan approved by the DTSC pursuant to Education Code Section 17213.

Authorization for use of New Construction Grants for which the final plans and specifications for the project were accepted by the DSA after January 22, 2003 may be requested as follows:

- (a) A district may request new construction grants that exceed the capacity of the project based on loading standards pursuant to Education Code Section 17071.25(a)(2) and any loading standards adopted by the SAB by these regulations if the project is to construct a multipurpose, gymnasium, and/or library, or for an Alternative Education school to construct a multipurpose/gymnasium, library, counseling offices, and/or conference rooms, at an existing site that does not have an existing or adequate facility of the type being requested when all of the following is met:
  - (1) The district must adopt a school board resolution that has been discussed at a public hearing at a regularly scheduled meeting of the district's governing board on a date preceding the application filing that includes the following:
    - (A) An acknowledgement that funds for the purposes of housing the excess pupils are being diverted to another project.
    - (B) An acknowledgement that the State has satisfied its obligation, pursuant to Section 1859.50, to house the pupils receiving grants in the project.
    - (C) A plan outlined in the resolution that identifies how the district has housed or will house the pupils receiving grants in the project in school buildings as defined in Education Code Section 17368. The plan must certify one of the following methods:
      - 1. The district will construct or acquire facilities for housing the pupils with funding not otherwise available to the SFP as a district match within five years of project approval by the SAB, and the district must identify the source of the funds; or
      - 2. The district will utilize higher district loading standards providing the loading standards are within the approved district's teacher contract and do not exceed 33:1 per classroom.
  - (2) The existing school site was not constructed under the SFP.
  - (3) The proposed project includes no more than eight classrooms.
  - (4) Grants requests, above 100 percent of the number of pupils to be housed, based on Special Day Class pupil eligibility are only permitted under this subsection (a) when building a Special Day Class facility.
  - (5) For purposes of this section to determine if an existing facility is inadequate, the existing square footage is less than 60 percent of the square footage necessary for the current CBEDS for the site plus the Net School Building Capacity of the proposed project as calculated pursuant to Section 1859.82(b), except for Alternative Education Schools. For Alternative Education Schools, refer to the following:

ALTERNATIVE EDUCATION			
Support Facility	Existing Site Plus Proposed Project Contain 1 or 2 Classrooms	Existing Site Plus Proposed Project Contain 3 to 10 Classrooms *	Existing Site Plus Proposed Project Contain 11 or More Classrooms*
Multipurpose Facility or Gymnasium (includes food service)	2,500 sq. ft.	6.3 sq. ft. per pupil minimum 4,000 sq. ft.	6.3 sq. ft. per pupil minimum 7,200 sq. ft., maximum of 18, 000 sq. ft.
Counseling Offices, and/or Conference Rooms	1,000 sq. ft. Combined Total	1,000 sq. ft.	1,000 sq. ft.
Library/Media Space		4.3 sq. ft. per pupil plus 600 sq. ft.	4.3 sq. ft. per pupil plus 600 sq. ft.

\* The proposed project cannot include more than eight classrooms.

- (6) The maximum excess pupil amount being requested for this type of use of grants request, is calculated by the following:
  - (A) Multiply the current CBEDS for the site plus the Net School Building Capacity for the proposed project by the square footage for the type of facility being requested, pursuant to Section 1859.82(b), except for Alternative Education Schools. For Alternative Education Schools, refer to the chart above.
  - (B) Multiply the product in (a)(6)(A) above by the per square foot grant amount for multipurpose, gymnasium or library facilities pursuant to Section 1859.82(b); utilize the same per square foot grant amount for the Alternative Education school facilities as shown in Section 1859.82(b).
  - (C) Divide the product in (a)(6)(B) above by the New Construction Grant amount for the project grade level, rounded up to the nearest whole number.
- (b) A district may request new construction grant eligibility determined at a different grade level than the proposed project that does not exceed the capacity of the project, unless the project includes a request as indicated in Section 1859.77.3(a), based on loading standards pursuant to Education Code Section 17071.25(a)(2) and any loading standards adopted by the SAB by these regulations when all of the following is met:
  - (1) The district must adopt a school board resolution that has been discussed at a public hearing at a regularly scheduled meeting of the district's governing board on a date preceding the application filing that include the following:
    - (A) An acknowledgement that funds for the purposes of housing the excess pupils are being diverted to another project.
    - (B) An acknowledgement that the State has satisfied its obligation, pursuant to Section 1859.50, to house the pupils receiving grants in the project.
    - (C) A plan outlined in the resolution that identifies how the district has housed or will house the pupils receiving grants in the project in school buildings as defined in Education Code Section 17368. The plan must certify one of the following methods:
      - 1. The district will construct or acquire facilities for housing the pupils with funding not otherwise available to the SFP as a district match within five years of project approval by the SAB, and the district must identify the source of the funds; or
      - 2. The district will utilize higher district loading standards providing the loading standards are within the approved district's teacher contract and do not exceed 33:1 per classroom; or
      - 3. The pupils requested from a different grade level will be housed in classrooms at an existing school in the district which will have its grade level changed, to the grade level requested, at the completion of the proposed SFP project.

- (2) Only New Construction Grant eligibility for grades Kindergarten through 12 can be requested pursuant to this subsection (b), and the district must use its New Construction Grant eligibility, pursuant to subsection (b), in the following order:
- (A) At the grade level of the proposed project, if available.
  - (B) At the lowest grade level other than the proposed project, if available.
  - (C) At the next highest grade level other than the proposed project.
  - (c) A district may request new construction eligibility based on the SFP Regulation Section 1859.77.2 or 1859.77.3, as appropriate, in place as of the date of a local bond election provided that clear language was included in the local bond that specifically identified the proposed project, and provided that the project meets all laws and regulations of the SFP.

If a district wishes to amend its Approved Application to include or increase its use of grants request after the submittal to the OPSC, the district must request in writing that the Approved Application be withdrawn and removed from the OPSC workload list. The resubmitted application will receive a new processing date by the OPSC.

The New Construction Grant amount provided shall be determined based on the grant amount provided in Education Code Section 17072.10 for the grade level that generated the eligibility and any New Construction Additional Grant or New Construction Excessive Cost Hardship Grant the district qualifies for as provided by these regulations.

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

Reference: Sections 17072.13 and 17072.35, Education Code.

**Section 1859.82. Facility Hardship.**

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

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