

INITIAL STATEMENT OF REASONS

Section 1859.2. Definitions.

Specific Purpose of the Regulation

To provide the meaning of a specific term that is essential to the School Facility Program (SFP) Regulations.

Need for the Regulation

It was necessary to add the following definition:

“Multipurpose/Gymnasium Hybrid” means a single facility that is comprised of both a multipurpose room (MPR) 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 (CDE).

It was necessary to add this definition in order to allow qualifying school districts the option to use their eligibility for school bond funding for construction of MPR/Gymnasium Hybrid facilities. The existing SFP Regulations allow “Use of Grants” funding for multipurpose rooms or gymnasiums as separate facilities, however, the Regulations did not anticipate some school districts or charter schools desiring a combined MPR and gymnasium within the same building structure and sharing a portion of the square footage. It was necessary that the MPR/Gymnasium Hybrid be identified as such by the CDE because that is the Department authorized to approve school sites and facilities before funding determinations are made by the State Allocation Board (SAB).

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

Specific Purpose of the Regulation

To set forth the criteria and permissible uses of New Construction Grant funds for MPR/Gymnasium Hybrid facilities as permissible uses subject to specific criteria.

Need for the Regulation

It was necessary to add the option for school districts to be eligible for SFP funding for MPR/Gymnasium Hybrid facilities sharing a portion of their square footage, subject to specific size, need, grade level, and square footage criteria because this Regulation Section currently recognizes only separate MPRs and gymnasiums. This Section sets forth the criteria and permissible uses of New Construction Grant funds in accordance with Education Code Section 17072.35 for multipurpose rooms, gymnasiums, libraries, and in addition, for Alternative Education schools, counseling offices and/or conference rooms.

The proposed amendments are within the SAB’s authority to enact regulations for the SFP under Education Code Section 17070.35 and Government Code Section 15503. The SAB finds the proposed regulatory amendments reasonably necessary to provide a lower cost option for school districts seeking to construct ancillary facilities that directly benefit the pupils.

Subsection (a), line 3: It was necessary to add “Multipurpose/Gymnasium Hybrid,” to the listing of ancillary facilities for which SFP funding is permissible in order to remedy the existing requirement in this Section permitting SFP funding for only separate MPRs and gymnasiums.

New Subsection (a)(5): It was necessary to add this new subsection describing an MPR/Gymnasium Hybrid in order to include it for SFP funding under subsection (a). In addition, it was necessary to clarify that:

- schools with middle school and/or high school pupils are eligible for both one MPR and one gymnasium; and
- a school site with an adequate MPR and an adequate gymnasium is not eligible for an MPR/Gymnasium Hybrid under this Section.

These two criteria were necessary in order to re-state the existing principles of the SFP that Kindergarten through sixth grade (K-6) campuses are not structured to contain these types of facilities, and that State school bond funds should not be apportioned to build facilities at schools that already have adequate facilities for that function. These principles ensure the fairer and more effective apportionment of school bonds among a broader number of school districts and county offices of education.

Renumbered Subsection (a)(6): It was necessary to renumber subsection “(a)(5)” as “(a)(6)” because of the addition of new subsection “(a)(5).” This is a non-substantive change in order to provide continuity throughout the SFP Regulations.

Renumbered Subsection (a)(7): It was necessary to renumber subsection “(a)(6)” as “(a)(7)” because of the addition of new subsection “(a)(5).” This is a non-substantive change in order to provide continuity throughout the SFP Regulations.

Renumbered Subsection (a)(7)(B), Line 1: It was necessary to change “(a)(6)(A)” to “(a)(7)(A)” because new subsection “(a)(5)” was added by these regulatory amendments, causing “(a)(6)” to be renumbered as “(a)(7).” This is a non-substantive change in order to provide continuity throughout the SFP Regulations.

Renumbered Subsection (a)(7)(C), Line 1: It was necessary to change “(a)(6)(B)” to “(a)(7)(B)” because new subsection “(a)(5)” was added by these regulatory amendments, causing “(a)(6)” to be renumbered as “(a)(7).” This is a non-substantive change in order to provide continuity throughout the SFP Regulations.

Use of Grants (UOG).

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.

The square footage amounts currently in SFP Regulations are based on square footage amounts provided for similar facilities under the Lease-Purchase Program (LPP) - - The State School Building Lease-Purchase Law of 1976, Education Code Sections 17000 et seq. The proposed square footage amounts for an MPR/Gymnasium 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/Gym Hybrid sq. 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/Gym Hybrid sq. 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 Gymnasium, or an MPR/Gymnasium Hybrid. The MPR/Gymnasium 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 multipurpose rooms and gymnasiums. The proposed regulations include this amount directly in the UOG regulation. The SAB intends that the next annual Class B Construction Cost Index adjustment (due to be considered at the January 2013 SAB meeting) be applied to this 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 and provided input to the OPSC on square footage amounts for the components of an MPR/Gymnasium Hybrid. The CDE provided three examples of MPR/Gymnasium 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 the existing SFP 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/Gymnasium Hybrid is considered the equivalent of both an MPR and a gym. Districts may convert an existing MPR or gym into an MPR/Gymnasium Hybrid, as long as the end result is that the site has no more than one adequate MPR and one adequate gym.

When this topic was discussed at the SAB Implementation Committee meetings, several members of the committee and the public expressed concerns regarding the 60 percent threshold requirement. They suggested that any facility that is less than the per pupil square foot regulatory allowance should be eligible for the UOG funding option. However, the SAB accepted staff's recommendation to continue the 60 percent threshold calculation to be eligible for the UOG funding option. When the SAB adopted the proposed regulatory amendments at its meeting on September 19, 2012, there were no opposing public comments.

No reasonable alternatives were considered for the proposed regulatory amendments because the amendments resolve the absence of MPR/Gymnasium Hybrids from SFP UOG funding, which provides a lower cost option to school districts and benefits pupils by allowing them both the MPR and gymnasium functions.

Technical Documents Relied Upon

The SAB's Action item, dated September 19, 2012, entitled "Multipurpose Room/Gymnasium Hybrid Use of Grants Requests."

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 regulations or would be as effective and less burdensome to affected private persons than the proposed regulations, 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 regulations do not affect small businesses.

Finding of Significant Adverse Economic Impact on Businesses

The SAB has determined that the adoption of the regulations 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 regulations.

Impact on Local Agencies or School Districts

The SAB has determined that the proposed regulations do 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. They will not require local agencies or school districts to incur additional costs in order to comply with the proposed regulations.