

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, March 26, 2014

CONSIDERATION OF ADDITIONAL PROGRAMS REQUIRED TO PARTICIPATE
IN THE PRIORITY FUNDING PROCESS

PURPOSE OF REPORT

To present additional information regarding options for the State Allocation Board's (Board) consideration to include the Overcrowding Relief Grant (ORG) program, Career Technical Education Facilities Program (CTEFP), and Charter School Facilities Program (CSFP) in School Facility Program (SFP) regulations that outline the criteria for participation in the priority funding process.

DESCRIPTION

Staff is presenting additional information regarding options for the inclusion of the ORG program, CTEFP, and CSFP in the priority funding participation requirements outlined in the SFP Regulation Section 1859.90.3, with additional considerations for CTEFP. The priority funding process was adopted by the Board previously to promote activity on the unfunded list so that construction-ready projects would receive funding. Per the Board's request, Staff has included information regarding the number of projects and the impact of any changes to the affected applicants. Additional options have been prepared for the potential implementation of these proposed regulatory amendments specifically for CTEFP projects.

AUTHORITY

See Attachment A.

BACKGROUND

At the January 22, 2014 meeting, Staff presented to the Board options for the inclusion of ORG program, CTEFP, and CSFP projects in the participation requirements for the priority funding process, excluding advance release of design and/or site acquisition funds from a Preliminary Charter School Apportionment. The Board requested that Staff bring back additional information related to the applicants impacted by the proposed changes. In addition, the Board also requested information on the timelines for the implementation of the proposed regulation changes. The January 2014 item is included as Attachment F for reference.

STAFF ANALYSIS/STATEMENTS

As requested by the Board at the January 22, 2014 meeting, Staff is presenting an analysis of the applicants affected by the proposed regulation changes and the potential timelines for the implementation for the regulatory amendments with additional considerations for CTEFP projects that were approved with a "reservation of funds".

Affected Applicants and Projects

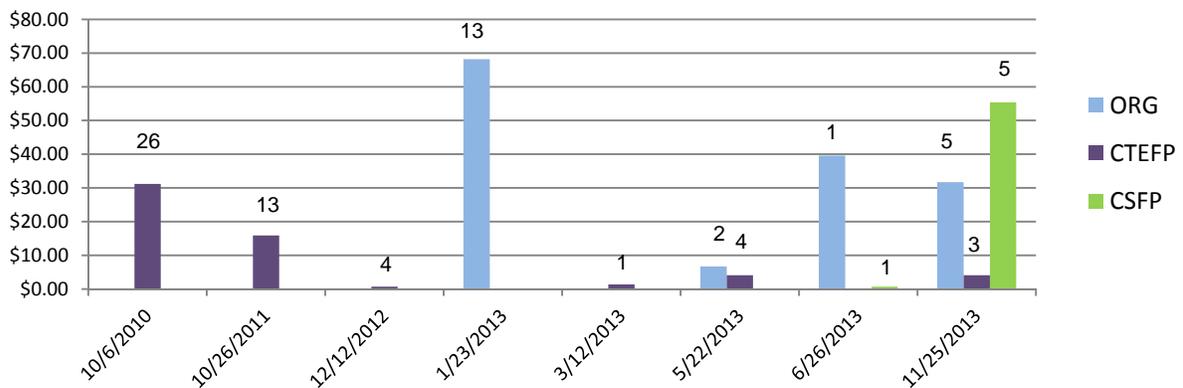
As of the January 22, 2014 Board meeting, there are a total of 37 applicants that have one or more projects on the Unfunded List (Lack of AB 55 Loans) for the ORG program, CTEFP, and CSFP that would be affected by the proposed regulatory amendments. These 78 projects represent a total of \$241.8 million in bond authority. The OPSC has notified these applicants of the Board's consideration of changes in participation requirements that may affect their projects.

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STAFF ANALYSIS/STATEMENTS (cont.)

Attachment B provides a list of the projects currently on the Unfunded List (Lack of AB 55 Loans) by applicant and program, and the amount of bond authority reserved for each project. The CSFP projects included here are limited to unfunded approvals that will become a Final Charter School Apportionment when the priority funding apportionment is granted. The proposed regulations would only apply to this type of CSFP Application.

Number of ORG, CTEFP, and CSFP Projects on the Unfunded List (Lack of AB 55 Loans), Reserved Bond Authority (in Millions), and Date of Board Approval



(Continued on Page Three)

STAFF ANALYSIS/STATEMENTS (cont.)

At the January meeting, Members expressed concern for applicants' ability to meet the requirements of the priority funding process without adequate notice and planning time. If the amendments are approved at the March 2014 Board meeting on an emergency basis, the potential effective date for the proposed regulation amendments would be May 9, 2014. If approved on a non-emergency basis, the proposed regulations would be effective October 1, 2014. Staff has included four scenarios below to demonstrate how the participation requirements could affect the applicants.

Emergency Timeline

If the proposed Regulations are in effect by May 9, 2014, the first priority funding filing period following the effective date would begin on May 14, 2014, and the next would begin on November 12, 2014. Two occurrences of non-participation in these filing periods could result in a rescission by December 2014 as shown in Scenario 1 below. This would give the affected applicants about **eight weeks** from the Board's approval date of the regulations before being required to participate in their first priority funding filing round. These timeframes correspond with Option 1(A) in the **OPTIONS** Section.

Scenario 1

TWO OCCURENCES OF NON-PARTICIPATION IN A FILING ROUND: EMERGENCY TIMELINE

ESTIMATED OAL EMERGENCY REGULATION EFFECTIVE DATE	FIRST PRIORITY FUNDING FILING PERIOD	SECOND PRIORITY FUNDING FILING PERIOD	RESCISSION
May 9, 2014	NO May 14, 2014	NO November 12, 2014	December 2014

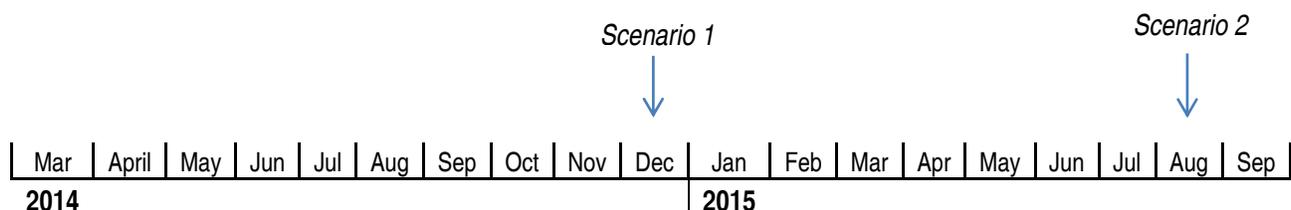
If the applicant participates in the second filing round and receives an apportionment in May 2015, but does not submit a Fund Release request within 90 days, a possible rescission would occur in August 2015 as seen below.

Scenario 2

ONE OCCURRENCE OF NON-PARTICIPATION + ONE OCCURRENCE OF NO SUBMITTAL OF A VALID FUND RELEASE: EMERGENCY TIMELINE

ESTIMATED OAL EMERGENCY REGULATION EFFECTIVE DATE	FIRST PRIORITY FUNDING FILING PERIOD	SECOND PRIORITY FUNDING FILING PERIOD	APPORTIONMENT GRANTED	VALID FUND RELEASE NOT RECEIVED RESCISSION
May 9, 2014	NO May 14, 2014	YES November 12, 2014	YES May 2015	August 2015

POTENTIAL RESCISSION DATES



(Continued on Page Four)

STAFF ANALYSIS/STATEMENTS (cont.)

Non-Emergency Timeline

If approved on a non-emergency basis, the regulation amendments would likely be effective on October 1, 2014. The first priority funding filing period would begin on November 12, 2014, and the second on May 13, 2015. Two occurrences of non-participation in these filing periods could result in a rescission by June 2015 as shown in the chart below. This would give the affected applicants about **seven months** from the Board's approval before being required to participate in their first priority funding filing round. These timeframes correspond with Option 1(B) in the **OPTIONS** Section.

Scenario 3

TWO OCCURENCES OF NON-PARTICIPATION IN A FILING ROUND: NON-EMERGENCY TIMELINE

ESTIMATED OAL REGULATION EFFECTIVE DATE	FIRST PRIORITY FUNDING FILING PERIOD	SECOND PRIORITY FUNDING FILING PERIOD	RESCISSION
October 1, 2014	NO November 12, 2014	NO May 13, 2015	June 2015

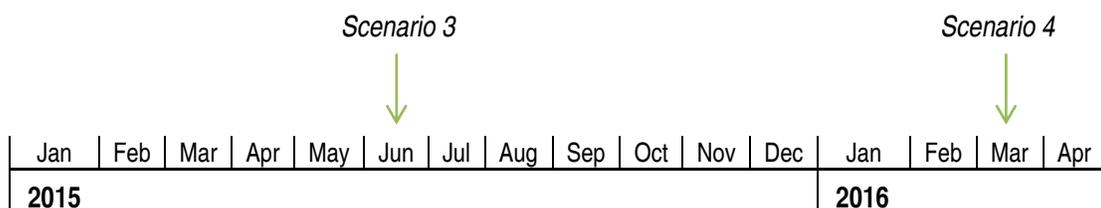
If the applicant does not participate in the first filing round, participates in the second filing round and receives an apportionment in December 2015, but does not submit a Fund Release request within 90 days, a possible rescission would occur in March 2016 as shown below in Scenario 4.

Scenario 4

ONE OCCURRENCE OF NON-PARTICIPATION + ONE OCCURRENCE OF NO SUBMITTAL OF A VALID FUND RELEASE

ESTIMATED OAL REGULATION EFFECTIVE DATE	FIRST PRIORITY FUNDING FILING PERIOD	SECOND PRIORITY FUNDING FILING PERIOD	APPORTIONMENT GRANTED	VALID FUND RELEASE NOT RECEIVED RECISSION
October 1, 2014	NO November 12, 2014	YES May 13, 2015	YES December 2015	March 2016

POTENTIAL RESCISSION DATES



STAFF ANALYSIS/STATEMENTS (cont.)

Additional Considerations for the Career Technical Education Facilities Program

Of the 51 CTEFP projects on the Unfunded List (Lack of AB 55 Loans), 48 have funds reserved pursuant to SFP Regulation Section 1859.193(d), also known as a “reservation of funds”. This regulation section allowed these projects to be approved without having California Department of Education (CDE) approval and Division of the State Architect (DSA) approved plans and specifications. The applicant is allowed the 12 months to submit these documents to the Office of Public School Construction (OPSC) after an apportionment has been approved. Once the required approvals have been submitted the applicant is eligible to receive a fund release. The current priority funding process does not allow for this additional time to obtain the necessary approvals.

In addition, all CTEFP projects are currently exempt from the requirements for participation in the priority funding process. They could remain on the Unfunded List (Lack of AB 55 Loans) indefinitely, which affords the applicant maximum flexibility in planning for the execution of the project. If the Board adopts amendments proposed in this item to include all CTEFP projects in the participation requirements for priority funding, these “reservation of funds” projects will have only 90 days after apportionment to submit the approvals required to receive a fund release. In an effort to honor the timelines previously provided for the “reservation of funds” projects, the Board may wish to consider allowing additional time for these projects to obtain the necessary approvals.

The Board could establish a maximum time period to allow the applicant to submit the necessary approvals before the 90-day requirement to request a fund release becomes effective. For example, the Board could provide an apportionment and then allow the applicant up to the original 12 months or a lesser time period, such as six months to obtain and submit the necessary approvals. The 90 day requirement to submit a fund release would begin on the received date. This additional time would allow applicants more flexibility in adapting to the proposed regulatory amendments. The options below account for that prior allowance to obtain the necessary approvals from CDE and DSA. However, allowing this additional time may conflict with the goals of the priority funding process, which is to distribute cash to construction-ready projects. With a six or 12 month allowance, cash could be reserved for up to 15 months, versus the current 90 days.

This illustration shows the current timeline for CTEFP project apportionments. Cash is reserved for **90 days**.



This illustration corresponds with Option 2 in the **OPTIONS** Section. Cash would be reserved for up to **6 months + 90 days**.



This illustration corresponds with Option 3 in the **OPTIONS** Section. Cash would be reserved for up to **12 months + 90 days**.



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OPTIONS

Staff has compiled the following options for the Board's consideration to promote activity on the list of unfunded approvals and equity among the various programs for participation in the priority funding process. The first option provided below adds ORG program, CTEFP and CSFP to the list of programs required to participate in the priority funding process with options for emergency and non-emergency implementation timelines. Options #2 and #3 add the three programs and provide additional time extensions to specified CTEFP projects.

Option #1 - Approve regulatory amendments to SFP Regulation Section 1859.90.3 to include ORG, CTEFP, and CSFP projects, excluding CSFP advance release of design and/or site acquisition funds from a Preliminary Charter School Apportionment, as shown in Attachment C.

A) Emergency

If the regulatory amendments are approved on an **emergency timeline**, ORG program, CTEFP, and CSFP, excluding advance release of design and/or site acquisition funds from a Preliminary Charter School Apportionment, project applicants would be subject to the priority funding participation requirements set forth in SFP Regulation Section 1859.90.3 as soon as May 9, 2014. If applicants do not meet the participation requirements, possible rescissions could occur as early as **December 2014**. Returning authority could be used for other projects of the same program currently on the Unfunded List (Lack of AB 55 Loans).

B) Non-emergency

If the regulatory amendments are approved on a **non-emergency timeline**, ORG program, CTEFP, and CSFP, excluding advance release of design and/or site acquisition funds from a Preliminary Charter School Apportionment, project applicants would be subject to the priority funding participation requirements set forth in SFP Regulation Section 1859.90.3 of October 1, 2014. If applicants do not meet the participation requirements, possible rescissions could occur as early as **June 2015**. Returning authority could be used for other projects of the same program currently on the Unfunded List (Lack of AB 55 Loans).

Considerations

Cash would be made available for projects that are construction-ready.

Applicants may not be ready to move forward before the second occurrence of non-participation in the priority funding process.

If a district is required to submit a priority funding request while the State does not have cash available, districts may need to plan without knowing when they can expect funds.

OPTIONS (cont.)

Option #2 – Priority Funding Participation for All Programs – Six Month Consideration for CTEFP

This option would be similar to Option 1, except it would allow CTEFP reservation of funds projects currently on the Unfunded List (Lack of AB 55 Loans) up to six months from the date of apportionment to submit the required CDE plan approval and DSA-approved plans and specifications to OPSC, plus 90 days to meet the requirements of a priority funding apportionment fund release. The proposed regulatory amendments to SFP Regulation Sections 1859.90.2, 1859.90.3, 1859.193 and 1859.197 for this option are shown in Attachment D.

Considerations

Applying the participation requirements of priority funding to CTEFP projects currently on the Unfunded List (Lack of AB 55 Loans) would prevent non-construction ready projects from reserving bond authority indefinitely and allow construction-ready projects to receive funding.

Applicants may not be ready to move forward before the second occurrence of non-participation in the priority funding process.

Cash could be reserved for these projects for up to nine months.

Option #3 – Priority Funding Participation for All Programs – Twelve Month Consideration for CTEFP

This option would be similar to Option 1, except it would allow CTEFP reservation of funds projects currently on the Unfunded List (Lack of AB 55 Loans) up to 12 months from the date of apportionment to submit the required CDE plan approval and DSA-approved plans and specifications to the OPSC, plus 90 days to meet the requirements of a priority funding apportionment fund release. The proposed regulatory amendments to SFP Regulation Sections 1859.90.2, 1859.90.3, 1859.193 and 1859.197 for this option are shown in Attachment E.

Considerations

Applying the participation requirements of priority funding to CTEFP projects currently on the Unfunded List (Lack of AB 55 Loans) would prevent non-construction ready projects from reserving bond authority indefinitely and allow construction-ready projects to receive funding.

Applicants may not be ready to move forward before the second occurrence of non-participation in the priority funding process.

Cash could be reserved for these projects for up to 15 months.

Option #4 – Take no action

RECOMMENDATION

Seek Board direction.

BOARD ACTION

In considering this Item, the SAB approved Option #3 on a non-emergency basis. This Option requires ORG, CTEFP, and CSFP projects (excluding CSFP advance release of design and/or site acquisition funds from a Preliminary Charter School Apportionment) to participate in the Priority Funding process. Applicants would be subject to the Priority Funding participation requirements set forth in SFP Regulation Section 1859.90.3 as soon as October 1, 2014. In addition, the Option provides 12 months for CTEFP projects to obtain CDE and Division of the State Architect plan approvals once the SAB has approved a Priority Funding apportionment and submit the plans to the OPSC, upon which CTEFP applicants would have 90 days to meet the requirements of a Priority Funding apportionment fund release.

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AUTHORITY

Education Code Section 17070.35

(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.

SFP Regulation Section 1859.2. Definitions.

"Application" means a request pursuant to the Act to receive an eligibility determination and/or funding for a school project.

....

"Final Charter School Apportionment" shall mean a Preliminary Charter School Apportionment that has been converted to a Final Charter School Apportionment in accordance with Section 1859.165.

....

"Preliminary Charter School Apportionment" means an apportionment made pursuant to Education Code Section 17078.52(d)(3).

....

"Unfunded List (Lack of AB 55 Loans)" means an information list of unfunded projects that was created due to the State's inability to provide interim financing from the Pooled Money Investment Account (AB 55 loans) to fund school construction projects as declared in the Department of Finance Budget Letter #33 issued on December 18, 2008.

Section 1859.90.2. Priority Funding Process.

The priority funding process allows the Board to distribute available funds to districts or charter schools that request, pursuant to (a) or (b) below, as applicable, an Apportionment or an advance release of funds from a Preliminary Apportionment or Preliminary Charter School Apportionment, during specific 30-calendar day filing periods beginning with July 27, 2011 and continuing with the 2nd Wednesday of January and the 2nd Wednesday of July of 2012. Requests submitted during the filing periods described above are valid until the next filing period begins. The specific 30-calendar day filing periods subsequent to 2012 begin with January 9, 2013 and continue with the 2nd Wednesday of May and the

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2nd Wednesday of November, each calendar year. Requests submitted during the filing period beginning with January 9, 2013 are valid until June 30, 2013. Requests submitted during a filing period beginning with the 2nd Wednesday of May are valid from July 1 until December 31 of that year. Requests submitted during a filing period beginning with the 2nd Wednesday in November are valid from January 1 until June 30 of the following year. Requests must be physically received by the OPSC by the 30th calendar day of each filing period to be considered valid.

(a) In order to be considered for an Apportionment, approved advance release of design funds from a Preliminary Charter School Apportionment, or approved advance release of environmental hardship site acquisition funds from a Preliminary Apportionment, the district or charter school must provide a priority funding request in the form of a written statement signed by an authorized representative that includes each of the project application numbers, and the type of apportionment request (e.g., Apportionment, separate apportionment for design or site acquisition), within the 30-calendar day filing period, and shall contain all of the following:

(1) Statement that the request is to convert the unfunded approval to an Apportionment or to receive an approved advance release of funds; and

(2) Acknowledgement that a valid, original signature Form SAB 50-05 must be submitted and physically received by the OPSC within 90 calendar days of Apportionment or approved advance release of funds request and that failure to do so will result in the rescission of the Apportionment or approved advance release of funds request without further Board action; and

(3) Acknowledgement that, if the district submits the Form SAB 50-05 on or after July 1, 2013 and is required to submit an LCP third party report, pursuant to Section 1859.97(b), the report will be submitted to the OPSC and the DIR at least 60 days prior to submitting the Form SAB 50-05; and

(4) For those receiving an Apportionment, acknowledgement that by participating in the priority funding process, the district or charter school is waiving its right to the 18 month timeline for fund release submittal described in Section 1859.90.

(b) In order to be considered for an approved advance release of site acquisition funds from a Preliminary Charter School Apportionment, the district or charter school must provide a priority funding request in the form of a written statement signed by an authorized representative within the 30-calendar day filing period, and shall contain all of the following:

(1) Statement that the request is to convert the advance release of funds to an approved advance release of funds request; and,

(2) Acknowledgement that a valid, original signature Form SAB 50-05 must be submitted and physically received by the OPSC within 180 calendar days of the approved advance release of funds request and that failure to do so will result in the rescission of the approved advance release of funds request without further Board action; and

(3) Acknowledgement that it must provide evidence that it has entered into the Charter School Agreements within 90 calendar days of approval of the advance release of funds request and that failure to do so will result in the rescission of the approval without further Board action.

(c) If a district or charter school receives an Apportionment or approved advance release of funds request through the priority funding process, the OPSC must receive a valid, original signature copy of the Form SAB 50-05 within the specified time period, pursuant to (a)(2) or (b)(2) as applicable. If the OPSC does not receive a valid, original signature copy of the Form SAB 50-05 within the time period:

(1) The priority funding Apportionment or approved advance release of funds request shall be rescinded without further Board action, and

(2) If the application is not subject to rescission pursuant to Section 1859.90.3(c) as defined in Section 1859.90.3(d), the application shall return to the Unfunded List (Lack of AB 55 Loans) with a new unfunded approval date that is 90 calendar days from the date of Apportionment or approval of the advance release of funds request.

(d) In the event that the amount of requests received during a specific 30-calendar day filing period exceeds the funds available, the Board shall apportion based on the unfunded approval date and the application received date up to the available cash from each bond source. Projects that have requested to participate in the priority funding process for which an Apportionment cannot be provided shall retain their date order position on the Unfunded List (Lack of AB 55 Loans). Requests not converted to apportionments will not be returned to the district or kept by the OPSC.

(e) For purposes of this section "rescinded" or "rescission" shall mean that the apportionment or approved advance release of funds request returns to unfunded approval status with a new unfunded approval date. The new unfunded

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approval date will be 90 calendar days from the apportionment date. The district or charter school will not be required to re-submit the application and no further application review will be required.

SFP Regulation Section 1859.90.3. Participation in the Priority Funding Process.

This section applies only to applications for new construction, modernization, Facility Hardship pursuant to Section 1859.82 and rehabilitation pursuant to Section 1859.83(e), and specifically excludes applications for the Charter School Facilities and Career Technical Education Facilities Programs.

(a) For each application on the Unfunded List (Lack of AB 55 Loans) for new construction, modernization, Facility Hardship pursuant to Section 1859.82 or rehabilitation pursuant to Section 1859.83(e), the occurrences of (1) or (2) below shall be limited after the effective date of this regulation section [March 25, 2013]:

(1) The district abstains from participating in a priority funding 30-calendar day filing period described in Section 1859.90.2 for the application on the Unfunded List (Lack of AB 55 Loans).

(2) The application receives a priority funding Apportionment pursuant to Section 1859.90.2(a), and the district fails to meet the fund release requirements pursuant to Section 1859.90.2(c).

(b) The first occurrence of (a)(1) or (a)(2) shall result in the following, as applicable:

(1) If (a)(1) occurs, the application shall retain its place on the Unfunded List (Lack of AB 55 Loans).

(2) If (a)(2) occurs, the priority funding Apportionment shall be rescinded and the application shall be returned to the Unfunded List (Lack of AB 55 Loans) pursuant to Section 1859.90.2(c)(2).

(c) If subsection (b) has occurred, a subsequent occurrence of either (a)(1) or (a)(2) shall result in the rescission of the application's Apportionment and/or unfunded approval, as applicable, and the removal of the application from the Unfunded List (Lack of AB 55 Loans) without further Board action. The application shall be returned to the applicant.

(d) For purposes of subsection (c), "rescinded" or "rescission" of an unfunded approval shall mean that the bond authority associated with the Apportionment or unfunded approval, as applicable, returns to the appropriate School Facility Program bond authority source for reallocation. If applicable, the pupils housed in the project will be added back to the district's baseline eligibility pursuant to Sections 1859.51(d) for new construction or 1859.61(d) for modernization.

SFP Regulation Section 1859.193

A Career Technical Education Facilities Project may construct a new facility or modernize or Reconfigure an existing school building. The application for Career Technical Education Facility funding may accompany an application for new construction funding pursuant to Section 1859.70 or may be submitted independently.

The applicant must identify square footage of the Career Technical Education Facility being constructed, modernized, reconfigured or equipped, on the funding application. Equipment purchased under the Career Technical Education Facilities Program must have an average useful life expectancy of at least ten years pursuant to Education Code 17078.72(a). An application for a Career Technical Education Facilities Project may consist entirely of equipment.

All equipment must be purchased on or after May 20, 2006, unless the Career Technical Education Facilities Project is combined with a qualifying SFP new construction project pursuant to Section 1859.193.1.

(a) For new construction of a Career Technical Education Facilities Project included in a qualifying New

Construction Grant, the Career Technical Education Facilities grant amount shall be the lesser of either (1) or (2):

(1) The sum of the costs uniquely related to facilities required to provide Career Technical Education as determined below:

(A) 50 percent of the cost of construction of the Career Technical Education Facilities Project, as determined by the project architect, subject to OPSC review and approval.

(B) 50 percent of the cost to equip the Career Technical Education Facilities Project with necessary equipment.

(C) For public works projects awarded on or after January 1, 2012, the prevailing wage monitoring and enforcement costs as prescribed in Section 1859.71.4(c), if required by the Labor Code.

(D) Minus an allowance for New Construction Grants provided for Career Technical Education classrooms, determined by:

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1. Multiplying 960 square feet by the number of classrooms in the Career Technical Education Facilities Project that were included in the New Construction project.
2. Multiplying the amount determined in (a)(1)(C)1 by 50 percent of the Current Replacement Cost for non-Toilet Facilities.
 - (2) \$3 million per Career Technical Education Facilities Project.
 - (3) Site development work is not allowed as part of a Career Technical Education Facilities Project included in a New Construction Grant. Site development work necessary pursuant to Section 1859.76, may be requested by the district under the qualifying SFP New Construction.
 - (4) Pursuant to Labor Code Section 1771.3, any public works project paid in whole or in part from public funds that are derived from bonds issued by the State and for which the construction contract is awarded on or after January 1, 2012, is subject to DIR monitoring and enforcement of compliance with applicable prevailing wage requirements, unless the project is exempt from this requirement pursuant to Labor Code Section 1771.3(b).
 - (5) Any school district failing to meet the requirements of (a)(4) shall return to the State any State funding for the project, including interest, at the rate paid on moneys in the Pooled Money Investment Account or at the highest rate of interest for the most recent issue of State general obligation bonds as established pursuant to the Chapter 4 (commencing with Section 16720), of Part 3 of Division 4 of Title 2 of the Government Code, whichever is greater. Interest to be returned shall be calculated from the date at which funds were received by the school district until the date of the Board's finding.
 - (6) If the DIR revokes the district's internal LCP's approval and the district fails to provide appropriate prevailing wage monitoring through the DIR or other exemptions as specified in Labor Code Section 1771.3, the school district shall return to the State any State funding received for the project, including interest, as calculated in subsection (a)(5) above, for any construction projects for which the violations occurred.
- (b) For stand-alone new construction of a Career Technical Education Facilities Project, the grant amount shall be the lesser of either (1) or (2):
 - (1) The sum of the costs uniquely related to facilities required to provide Career Technical Education as determined below:
 - (A) 50 percent of the cost of construction of the Career Technical Education Facilities Project, as determined by the project architect, subject to OPSC review and approval.
 - (B) 50 percent of the cost to equip the Career Technical Education Facilities Project with necessary equipment.
 - (C) 50 percent of site development work that meets the following criteria:
 1. It is necessary and applicable to the Career Technical Education Facilities Project.
 2. It meets the requirements for site development costs as outlined in Section 1859.76.
 - (D) For public works projects awarded after January 1, 2012, the prevailing wage monitoring and enforcement costs as prescribed in Section 1859.71.4(c), if required by the Labor Code.
 - (2) \$3 million per Career Technical Education Facilities Project.
 - (3) If the district is requesting funding for site development work applicable to the Career Technical Education Facilities Project, the district must submit a detailed cost estimate and appropriate DSA approved plans with the Form SAB 50-10. The cost estimate must include appropriate justification documents that indicate the work is necessary to complete the Career Technical Education Facilities Project and conform to the requirements in Section 1859.76.
 - (4) Utility service(s) cost shall be prorated, if necessary, for any excess capacity not needed to service the Career Technical Education Facilities Project.
 - (5) Pursuant to Labor Code Section 1771.3, any public works project paid in whole or in part from public funds that are derived from bonds issued by the State and for which the construction contract is awarded on or after January 1, 2012, is subject to DIR monitoring and enforcement of compliance with applicable prevailing wage requirements, unless the project is exempt from this requirement pursuant to Labor Code Section 1771.3(b).
 - (6) Any school district failing to meet the requirements of (b)(5) shall return to the State any State funding for the project, including interest, at the rate paid on moneys in the Pooled Money Investment Account or at the highest rate of interest for the most recent issue of State general obligation bonds as established pursuant to the Chapter 4 (commencing with Section 16720), of Part 3 of Division 4 of Title 2 of the Government Code, whichever is greater. Interest to be returned shall be calculated from the date at which funds were received by the school district until the date of the Board's finding.

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(7) If the DIR revokes the district's internal LCP's approval and the district fails to provide appropriate prevailing wage monitoring through the DIR or other exemptions as specified in Labor Code Section 1771.3, the school district shall return to the State any State funding received for the project, including interest, as calculated in subsection (b)(6) above, for any construction projects for which the violations occurred.

(c) For Modernization of a Career Technical Education Facilities Project, the grant amount shall be the lesser of either (1) or (2):

(1) The sum of the costs uniquely related to facilities required to provide Career Technical Education Facilities Project as determined below:

(A) 50 percent of the cost to modernize or Reconfigure the Career Technical Education Facilities, as determined by the project architect, subject to OPSC review and approval.

(B) 50 percent of the cost to equip the Career Technical Education Facilities with necessary equipment.

(C) For public works projects awarded on or after January 1, 2012, the prevailing wage monitoring and enforcement costs as prescribed in Section 1859.71.4(c), if required by the Labor Code.

(2) \$1.5 million per Career Technical Education Facilities Project.

(3) Reconfiguring an existing school building must not displace a minimum essential facility. In any case involving the replacement of a minimum essential facility due to the reconfiguration of an existing building, the replacement must be part of the plans submitted in support of the Career Technical Education Facilities Application, must occur concurrently, and cannot be part of a SFP Application for new construction.

(4) Utility service(s) cost shall be prorated, if necessary, for any excess capacity not needed to service the Career Technical Education Facilities Project.

(5) Pursuant to Labor Code Section 1771.3, any public works project paid in whole or in part from public funds that are derived from bonds issued by the State and for which the construction contract is awarded on or after January 1, 2012, is subject to DIR monitoring and enforcement of compliance with applicable prevailing wage requirements, unless the project is exempt from this requirement pursuant to Labor Code Section 1771.3(b).

(6) Any school district failing to meet the requirements of subsection (c)(5) above, shall return to the State any State funding for the project, including interest, at the rate paid on moneys in the Pooled Money Investment Account or at the highest rate of interest for the most recent issue of State general obligation bonds as established pursuant to the Chapter 4 (commencing with Section 16720), of Part 3 of Division 4 of Title 2 of the Government Code, whichever is greater. Interest to be returned shall be calculated from the date at which funds were received by the school district until the date of the Board's finding.

(7) If the DIR revokes the district's internal LCP's approval and the district fails to provide appropriate prevailing wage monitoring through the DIR or other exemptions as specified in Labor Code Section 1771.3, the school district shall return to the State any State funding received for the project, including interest, as calculated in subsection (c)(6) above, for any construction projects for which the violations occurred.

(d) If an applicant meets the eligibility criteria in Section 1859.192, but does not have the necessary approvals from the DSA and/or the CDE at the time of apportionment, the Board may apportion funds for the Career Technical Education Facilities Project and reserve them for a period of up to 12 months. The grant amount to be reserved for the project will be the maximum funding as determined above in (a), (b), or (c).

(e) Funding provided as prescribed in Section 1859.71.6 and Section 1859.77.4 shall not be affected by the maximum funding determinations listed above.

Section 1859.197 Fund Release Process.

The OPSC will release State funds that have been apportioned by the Board pursuant to Sections 1859.195 and 1859.196 after submittal by the applicant of the Form SAB 50-05.

(a) If an apportionment was made for a Career Technical Education Facilities Project, the applicant must submit a Form SAB 50-05 within 18 months of the Apportionment as outlined in Education Code Section 17076.10 or the apportionment shall be rescinded without further Board action.

(b) If Career Technical Education Facilities funds were reserved for the applicant pursuant to Section 1859.193(d) of these Regulations, the applicant:

ATTACHMENT A

- (1) Has one year from the date of apportionment to submit the CDE plan approval and DSA-approved plans and specifications, as required, to the OPSC for the Career Technical Education Facilities Project, otherwise the apportionment shall be rescinded without further Board action.
- (2) Has 18 months from the date the CDE plan approval and DSA-approved plans and specifications, as needed, are submitted to the OPSC to submit a completed Form SAB 50-05 or the apportionment shall be rescinded without further Board action. If the district is requesting an apportionment pursuant to Section 1859.90.1 or 1859.90.2, the Board will require that this time limit be reduced to no more than 90 days from the date of the apportionment.
- (c) If the applicant requires a loan for the entire matching share requirement pursuant to Section 1859.194(b) of these Regulations:
 - (1) Subject to the availability of financing provided by the Pooled Money Investment Board for bond-funded projects, the OPSC will release ten percent of the Career Technical Education Facilities grant to the applicant within 30 calendar days of the apportionment.
 - (2) The applicant has one year from the date of apportionment to submit the CDE plan approval and DSA-approved plans and specifications, as required, to the OPSC for the Career Technical Education Facilities Project, otherwise the apportionment shall be rescinded without further Board action.
 - (3) The applicant has 18 months from the date in (c)(2) to submit a completed Form SAB 50-05 or the apportionment shall be rescinded without further Board action.
- (d) If the district is requesting an Apportionment pursuant to Section 1859.90.1 or 1859.90.2 and if the district is requesting funding as prescribed in Section 1859.71.6 or Section 1859.77.4, as applicable, then the district must submit the necessary approvals from the DSA and/or the CDE, as applicable, at least 90 days prior to requesting an Apportionment.
- (e) If the district receives an Apportionment pursuant to (a) or (b) and if the district is requesting funding as prescribed in Section 1859.71.6 or Section 1859.77.4, as applicable, then the district must submit the necessary approvals from the DSA and/or the CDE, as applicable, at least 90 days prior to receiving an Apportionment.
- (f) The applicant is subject to substantial progress time limit on the apportionment as outlined in Education Code Section 17076.10(b).
- (g) In the event the Board determines there is a fiscal emergency or crisis on the part of the State of California, the Board may grant an extension not to exceed 12 months to the time limit prescribed in (b)(1) and (c)(2) above and Section 1859.193(d). Regulation Section 1859.197(g) shall become inoperative January 1, 2010.

ATTACHMENT B

Unfunded List (Lack of AB 55 Loans) as of January 22, 2014

County	Applicant	Application Number	SAB Unfunded Approval Date	State Unfunded Approval
ALAMEDA	NEW HAVEN UNIFIED	59/61242-00-001	10/6/2010	\$ 394,342
CONTRA COSTA	PITTSBURG UNIFIED	59/61788-00-001	3/12/2013	\$ 1,411,417
CONTRA COSTA	SAN RAMON VALLEY UNIFIED	55/61804-00-005	10/6/2010	\$ 818,151
CONTRA COSTA	SAN RAMON VALLEY UNIFIED	55/61804-00-005	8/22/2012	\$ 1,021
CONTRA COSTA	SAN RAMON VALLEY UNIFIED	55/61804-00-006	10/26/2011	\$ 412,085
CONTRA COSTA	SAN RAMON VALLEY UNIFIED	55/61804-00-006	8/22/2012	\$ 515
CONTRA COSTA	WEST CONTRA COSTA UNIFIED	54/61796-03-001	6/26/2013	\$ 886
EL DORADO	EL DORADO UNION HIGH	59/61853-00-001	10/6/2010	\$ 821,617
EL DORADO	EL DORADO UNION HIGH	59/61853-00-001	8/22/2012	\$ 1,027
FRESNO	CLOVIS UNIFIED	55/62117-00-006	11/25/2013	\$ 1,502,980
FRESNO	FRESNO UNIFIED	56/62166-00-013	1/23/2013	\$ 5,586,836
FRESNO	FRESNO UNIFIED	56/62166-00-013	3/20/2013	\$ 112,240
FRESNO	FRESNO UNIFIED	56/62166-00-013	3/20/2013	\$ 168,157
FRESNO	KINGS CANYON JOINT UNIFIED	55/62265-00-002	10/26/2011	\$ 3,000,000
IMPERIAL	HOLTVILLE UNIFIED	55/63149-00-001	11/25/2013	\$ 2,016,088
KERN	KERN COUNTY OFFICE OF EDUCATION	55/10157-98-001	10/6/2010	\$ 723,600
KERN	KERN HIGH	59/63529-00-016	12/12/2012	\$ 426,190
KERN	KERN HIGH	59/63529-00-017	10/6/2010	\$ 434,224
KERN	KERN HIGH	59/63529-00-017	5/22/2013	\$ 543
KERN	KERN HIGH	59/63529-00-020	10/26/2011	\$ 826,720
KERN	KERN HIGH	59/63529-00-020	8/22/2012	\$ 1,033
KERN	KERN HIGH	59/63529-00-022	10/6/2010	\$ 192,803
KERN	KERN HIGH	59/63529-00-022	8/22/2012	\$ 241
KERN	KERN HIGH	59/63529-00-024	11/25/2013	\$ 629,141
KERN	KERN HIGH	59/63529-00-028	12/12/2012	\$ 149,901
KERN	KERN HIGH	59/63529-00-029	10/26/2011	\$ 723,188
KERN	KERN HIGH	59/63529-00-029	8/22/2012	\$ 904
KERN	KERN HIGH	59/63529-00-030	10/6/2010	\$ 152,203
KERN	KERN HIGH	59/63529-00-030	8/22/2012	\$ 190
LOS ANGELES	ARCADIA UNIFIED	55/64261-00-002	8/22/2012	\$ 2,895
LOS ANGELES	ARCADIA UNIFIED	55/64261-00-002	10/6/2010	\$ 2,316,200
LOS ANGELES	BELLFLOWER UNIFIED	59/64303-00-003	12/12/2012	\$ 76,990
LOS ANGELES	GLENDALE UNIFIED	56/64568-00-005	3/20/2013	\$ 155,168
LOS ANGELES	GLENDALE UNIFIED	56/64568-00-005	1/23/2013	\$ 5,413,431
LOS ANGELES	GLENDALE UNIFIED	56/64568-00-006	3/20/2013	\$ 122,268

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Unfunded List (Lack of AB 55 Loans) as of January 22, 2014

County	Applicant	Application Number	SAB Unfunded Approval Date	State Unfunded Approval
LOS ANGELES	GLENDALE UNIFIED	56/64568-00-006	1/23/2013	\$ 4,565,089
LOS ANGELES	GLENDALE UNIFIED	56/64568-00-007	3/20/2013	\$ 194,870
LOS ANGELES	GLENDALE UNIFIED	56/64568-00-007	1/23/2013	\$ 6,607,033
LOS ANGELES	GLENDALE UNIFIED	56/64568-00-008	3/20/2013	\$ 51,073
LOS ANGELES	GLENDALE UNIFIED	56/64568-00-008	1/23/2013	\$ 2,101,391
LOS ANGELES	GLENDALE UNIFIED	56/64568-00-009	3/20/2013	\$ 219,130
LOS ANGELES	GLENDALE UNIFIED	56/64568-00-009	1/23/2013	\$ 7,503,496
LOS ANGELES	GLENDALE UNIFIED	56/64568-00-010	3/20/2013	\$ 128,891
LOS ANGELES	GLENDALE UNIFIED	56/64568-00-010	1/23/2013	\$ 4,514,173
LOS ANGELES	GLENDALE UNIFIED	56/64568-00-011	3/20/2013	\$ 196,891
LOS ANGELES	GLENDALE UNIFIED	56/64568-00-011	1/23/2013	\$ 6,889,539
LOS ANGELES	GLENDALE UNIFIED	56/64568-00-012	3/20/2013	\$ 165,967
LOS ANGELES	GLENDALE UNIFIED	56/64568-00-012	1/23/2013	\$ 5,740,704
LOS ANGELES	GLENDALE UNIFIED	56/64568-00-013	3/20/2013	\$ 102,445
LOS ANGELES	GLENDALE UNIFIED	56/64568-00-013	1/23/2013	\$ 3,598,189
LOS ANGELES	GLENDALE UNIFIED	56/64568-00-014	3/20/2013	\$ 287,370
LOS ANGELES	GLENDALE UNIFIED	56/64568-00-014	1/23/2013	\$ 9,783,471
LOS ANGELES	GREEN DOT PUBLIC SCHOOLS	54/64733-00-017	11/25/2013	\$ 11,985,916
LOS ANGELES	GREEN DOT PUBLIC SCHOOLS	54/64733-00-070	11/25/2013	\$ 7,177,288
LOS ANGELES	LONG BEACH UNIFIED	56/64725-00-001	11/25/2013	\$ 19,665,867
LOS ANGELES	LOS ANGELES UNIFIED	55/64733-00-007	10/6/2010	\$ 1,963,579
LOS ANGELES	LOS ANGELES UNIFIED	55/64733-00-007	8/22/2012	\$ 2,454
LOS ANGELES	LOS ANGELES UNIFIED	55/64733-00-009	10/6/2010	\$ 1,774,734
LOS ANGELES	LOS ANGELES UNIFIED	55/64733-00-009	10/26/2011	\$ 1,225,266
LOS ANGELES	LOS ANGELES UNIFIED	55/64733-00-011	10/26/2011	\$ 2,413,880
LOS ANGELES	LOS ANGELES UNIFIED	55/64733-00-011	5/22/2013	\$ 3,017
LOS ANGELES	LOS ANGELES UNIFIED	55/64733-00-013	10/6/2010	\$ 1,533,959
LOS ANGELES	LOS ANGELES UNIFIED	55/64733-00-013	5/22/2013	\$ 1,917
LOS ANGELES	LOS ANGELES UNIFIED	56/64733-00-016	6/26/2013	\$ 39,623,990
LOS ANGELES	LOS ANGELES UNIFIED	56/64733-00-019	11/25/2013	\$ 3,031,304
LOS ANGELES	LOS ANGELES UNIFIED	56/64733-00-020	11/25/2013	\$ 3,282,478
LOS ANGELES	LOS ANGELES UNIFIED	56/64733-00-021	11/25/2013	\$ 2,596,673
LOS ANGELES	LOS ANGELES UNIFIED	59/64733-00-028	10/6/2010	\$ 1,401,783
LOS ANGELES	LOS ANGELES UNIFIED	59/64733-00-028	8/22/2012	\$ 1,752
RIVERSIDE	DESERT SANDS UNIFIED	55/67058-00-005	8/22/2012	\$ 1,301

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Unfunded List (Lack of AB 55 Loans) as of January 22, 2014

County	Applicant	Application Number	SAB Unfunded Approval Date	State Unfunded Approval
RIVERSIDE	DESERT SANDS UNIFIED	55/67058-00-005	10/6/2010	\$ 1,040,611
RIVERSIDE	DESERT SANDS UNIFIED	55/67058-00-006	8/22/2012	\$ 3,333
RIVERSIDE	DESERT SANDS UNIFIED	55/67058-00-006	10/6/2010	\$ 2,666,732
RIVERSIDE	RIVERSIDE UNIFIED	59/67215-00-001	10/6/2010	\$ 579,687
RIVERSIDE	RIVERSIDE UNIFIED	59/67215-00-001	8/22/2012	\$ 725
SACRAMENTO	LANGUAGE ACADEMY OF SACRAMENTO	54/67439-00-005	11/25/2013	\$ 9,394,806
SACRAMENTO	LANGUAGE ACADEMY OF SACRAMENTO	54/67439-00-006	11/25/2013	\$ 1,330,064
SAN BERNARDINO	COLTON-REDLANDS-YUCAIPA ROP	59/74138-00-015	10/26/2011	\$ 2,050
SAN BERNARDINO	RIALTO UNIFIED	56/67850-00-002	1/23/2013	\$ 1,509,707
SAN BERNARDINO	RIALTO UNIFIED	56/67850-00-002	3/20/2013	\$ 44,867
SAN BERNARDINO	RIALTO UNIFIED	56/67850-00-003	1/23/2013	\$ 2,117,786
SAN BERNARDINO	RIALTO UNIFIED	56/67850-00-003	3/20/2013	\$ 298,458
SAN BERNARDINO	RIALTO UNIFIED	56/67850-00-003	5/22/2013	\$ 295
SAN BERNARDINO	RIALTO UNIFIED	56/67850-00-004	5/22/2013	\$ 1,663,899
SAN BERNARDINO	SNOWLINE JOINT UNIFIED	55/73957-00-001	10/6/2010	\$ 1,093,051
SAN BERNARDINO	SNOWLINE JOINT UNIFIED	55/73957-00-002	10/6/2010	\$ 1,031,968
SAN DIEGO	ESCONDIDO UNION HIGH	59/68106-00-001	12/12/2012	\$ 20,137
SAN DIEGO	SAN DIEGO UNIFIED	55/68338-00-001	10/6/2010	\$ 2,918,735
SAN DIEGO	SAN DIEGO UNIFIED	55/68338-00-001	8/22/2012	\$ 3,648
SAN DIEGO	SAN DIEGO UNIFIED	55/68338-00-002	10/26/2011	\$ 986,812
SAN DIEGO	SAN DIEGO UNIFIED	55/68338-00-002	8/22/2012	\$ 1,234
SAN DIEGO	SAN DIEGO UNIFIED	55/68338-00-004	10/6/2010	\$ 1,470,162
SAN DIEGO	SAN DIEGO UNIFIED	55/68338-00-004	8/22/2012	\$ 1,838
SAN DIEGO	SAN DIEGO UNIFIED	59/68338-00-001	10/26/2011	\$ 1,427,767
SAN DIEGO	SAN DIEGO UNIFIED	59/68338-00-001	8/22/2012	\$ 1,785
SAN DIEGO	SAN DIEGO UNIFIED	59/68338-00-005	5/22/2013	\$ 539,214
SAN DIEGO	SAN DIEGO UNIFIED	59/68338-00-006	10/6/2010	\$ 473,110
SAN DIEGO	SAN DIEGO UNIFIED	59/68338-00-006	8/22/2012	\$ 591
SAN DIEGO	SAN DIEGO UNIFIED	59/68338-00-007	10/6/2010	\$ 1,022,484
SAN DIEGO	SAN DIEGO UNIFIED	59/68338-00-007	8/22/2012	\$ 1,278
SAN FRANCISCO	SAN FRANCISCO UNIFIED	56/68478-13-001	11/25/2013	\$ 3,153,723
SAN JOAQUIN	STOCKTON UNIFIED	55/68676-00-002	10/26/2011	\$ 3,000,000
SAN JOAQUIN	TRACY JOINT UNIFIED	59/75499-00-007	10/6/2010	\$ 514,087
SAN JOAQUIN	TRACY JOINT UNIFIED	59/75499-00-007	8/22/2012	\$ 643
SANTA CLARA	CAMPBELL UNION HIGH	55/69401-00-007	8/22/2012	\$ 782

ATTACHMENT B

Unfunded List (Lack of AB 55 Loans) as of January 22, 2014

County	Applicant	Application Number	SAB Unfunded Approval Date	State Unfunded Approval
SANTA CLARA	CAMPBELL UNION HIGH	55/69401-00-007	10/26/2011	\$ 625,964
SANTA CLARA	CAMPBELL UNION HIGH	59/69401-00-001	8/22/2012	\$ 1,254
SANTA CLARA	CAMPBELL UNION HIGH	59/69401-00-001	10/26/2011	\$ 1,003,238
SANTA CLARA	CAMPBELL UNION HIGH	59/69401-00-002	8/22/2012	\$ 763
SANTA CLARA	CAMPBELL UNION HIGH	59/69401-00-002	10/26/2011	\$ 610,353
SANTA CLARA	CAMPBELL UNION HIGH	59/69401-00-003	5/22/2013	\$ 1,068,335
SANTA CLARA	PALO ALTO UNIFIED	55/69641-00-001	10/6/2010	\$ 3,000,000
SANTA CLARA	VOICES COLLEGE - BOUND LANGUAGE ACADEMY	54/69450-00-001	11/25/2013	\$ 8,211,721
SISKIYOU	SISKIYOU UNION HIGH	55/70466-00-002	10/6/2010	\$ 296,772
SISKIYOU	SISKIYOU UNION HIGH	59/70466-00-001	10/6/2010	\$ 143,380
STANISLAUS	CERES UNIFIED	59/71043-00-003	8/22/2012	\$ 1,502
STANISLAUS	CERES UNIFIED	59/71043-00-003	10/6/2010	\$ 1,201,300
STANISLAUS	PATTERSON JOINT UNIFIED	55/71217-00-001	5/22/2013	\$ 2,467,386
SUTTER	SUTTER UNION HIGH	59/71449-00-001	5/22/2013	\$ 123,289
SUTTER	YUBA CITY UNIFIED	59/71464-00-001	10/26/2011	\$ 839,622
VENTURA	SANTA PAULA UNION HIGH	56/72595-00-001	5/22/2013	\$ 4,996,625
				\$ 241,839,649

*This list represents 78 unique projects. Some may be shown on more than one line.

n/a indicates that an application was not on the list of unfunded approvals in time to participate in a specific filing period

Overcrowding Relief Grant Program

Career Technical Education Facilities Program

Charter School Facilities Program (Conversions only)

ATTACHMENT C

Proposed Regulatory Amendments

SFP Regulation Section 1859.90.3. Participation in the Priority Funding Process.

This section applies ~~only to a~~ Applications for funding for new construction, modernization, Overcrowding Relief Grant, Career Technical Education Facilities Program, Facility Hardship pursuant to Section 1859.82 and rehabilitation pursuant to Section 1859.83(e), and Charter School Facilities Program, excluding advance release of design and/or site acquisition funds from a Preliminary Charter School Apportionment and specifically excludes applications for the Charter School Facilities and Career Technical Education Facilities Programs.

- (a) For each ~~a~~ Application on the Unfunded List (Lack of AB 55 Loans) for new construction, modernization, Facility Hardship pursuant to Section 1859.82 or rehabilitation pursuant to Section 1859.83(e), the occurrences of (1) or (2) below shall be limited after the effective date of this regulation section [March 25, 2013]. For each Application on the Unfunded List (Lack of AB 55 Loans) for Overcrowding Relief Grant, Career Technical Education Facilities Program, and Charter School Facilities Program, excluding advance release of design and/or site acquisition funds from a Preliminary Charter School Apportionment, the occurrences of (1) or (2) below shall be limited after the effective date of this regulation section [XXX, 2014]:
- (1) The district abstains from participating in a priority funding 30-calendar day filing period described in Section 1859.90.2 for the ~~a~~ Application on the Unfunded List (Lack of AB 55 Loans).
- (2) The ~~a~~ Application receives a priority funding Apportionment pursuant to Section 1859.90.2(a), and the district fails to meet the fund release requirements pursuant to Section 1859.90.2(c).
- (b) The first occurrence of (a)(1) or (a)(2) shall result in the following, as applicable:
- (1) If (a)(1) occurs, the ~~a~~ Application shall retain its place on the Unfunded List (Lack of AB 55 Loans).
- (2) If (a)(2) occurs, the priority funding Apportionment shall be rescinded and the ~~a~~ Application shall be returned to the Unfunded List (Lack of AB 55 Loans) pursuant to Section 1859.90.2(c)(2).
- (c) If subsection (b) has occurred, a subsequent occurrence of either (a)(1) or (a)(2) shall result in the rescission of the ~~a~~ Application's Apportionment and/or unfunded approval, as applicable, and the removal of the ~~a~~ Application from the Unfunded List (Lack of AB 55 Loans) without further Board action. The ~~a~~ Application shall be returned to the applicant.
- (d) For purposes of subsection (c), "rescinded" or "rescission" of an unfunded approval shall mean that the bond authority associated with the Apportionment or unfunded approval, as applicable, returns to the appropriate School Facility Program bond authority source for reallocation. If applicable, the pupils housed in the project will be added back to the district's baseline eligibility pursuant to Sections 1859.51(d) for new construction or 1859.61(d) for modernization.

ATTACHMENT D

Proposed Regulatory Amendments

Section 1859.90.2. Priority Funding Process.

The priority funding process allows the Board to distribute available funds to districts or charter schools that request, pursuant to (a) or (b) below, as applicable, an Apportionment or an advance release of funds from a Preliminary Apportionment or Preliminary Charter School Apportionment, during specific 30-calendar day filing periods beginning with July 27, 2011 and continuing with the 2nd Wednesday of January and the 2nd Wednesday of July of 2012. Requests submitted during the filing periods described above are valid until the next filing period begins. The specific 30-calendar day filing periods subsequent to 2012 begin with January 9, 2013 and continue with the 2nd Wednesday of May and the 2nd Wednesday of November, each calendar year. Requests submitted during the filing period beginning with January 9, 2013 are valid until June 30, 2013. Requests submitted during a filing period beginning with the 2nd Wednesday of May are valid from July 1 until December 31 of that year. Requests submitted during a filing period beginning with the 2nd Wednesday in November are valid from January 1 until June 30 of the following year. Requests must be physically received by the OPSC by the 30th calendar day of each filing period to be considered valid.

(a) In order to be considered for an Apportionment, approved advance release of design funds from a Preliminary Charter School Apportionment, or approved advance release of environmental hardship site acquisition funds from a Preliminary Apportionment, the district or charter school must provide a priority funding request in the form of a written statement signed by an authorized representative that includes each of the project aApplication numbers, and the type of aApportionment request (e.g., Apportionment, separate aApportionment for design or site acquisition), within the 30-calendar day filing period, and shall contain all of the following:

- (1) Statement that the request is to convert the unfunded approval to an Apportionment or to receive an approved advance release of funds; and
- (2) Acknowledgement that a valid, original signature Form SAB 50-05 must be submitted and physically received by the OPSC within 90 calendar days of Apportionment or approved advance release of funds request, except for a Career Technical Education Facilities Project in (a)(5), and that failure to do so will result in the rescission of the Apportionment or approved advance release of funds request without further Board action; and
- (3) Acknowledgement that, if the district submits the Form SAB 50-05 on or after July 1, 2013 and is required to submit an LCP third party report, pursuant to Section 1859.97(b), the report will be submitted to the OPSC and the DIR at least 60 days prior to submitting the Form SAB 50-05; and
- (4) For those receiving an Apportionment, acknowledgement that by participating in the priority funding process, the district or charter school is waiving its right to the 18 month timeline for fund release submittal described in Section 1859.90.

(5) For a Career Technical Education Facilities Project that was granted an unfunded approval without the required CDE plan approval and/or required DSA-approved plans and specifications, the applicant's request must include:

- (A) Acknowledgement that the applicant must submit the required approval(s) to the OPSC within six months from the date of the Apportionment. If the required submittal(s) is not received within six months, the Apportionment shall be rescinded without further Board action pursuant to Section 1859.197 (c)(1); and
- (B) Acknowledgment that a valid, original signature Form SAB 50-05 must be submitted and physically received by the OPSC within 90 calendar days of the submittal described in (5)(A) and that failure to do so will result in the rescission of the Apportionment without further Board action.

(b) In order to be considered for an approved advance release of site acquisition funds from a Preliminary Charter School Apportionment, the district or charter school must provide a priority funding request in the form of a written statement signed by an authorized representative within the 30-calendar day filing period, and shall contain all of the following:

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- (1) Statement that the request is to convert the advance release of funds to an approved advance release of funds request; and,
 - (2) Acknowledgement that a valid, original signature Form SAB 50-05 must be submitted and physically received by the OPSC within 180 calendar days of the approved advance release of funds request and that failure to do so will result in the rescission of the approved advance release of funds request without further Board action; and
 - (3) Acknowledgement that it must provide evidence that it has entered into the Charter School Agreements within 90 calendar days of approval of the advance release of funds request and that failure to do so will result in the rescission of the approval without further Board action.
- (c) If a district or charter school receives an Apportionment or approved advance release of funds request through the priority funding process, the OPSC must receive a valid, original signature copy of the Form SAB 50-05 within the specified time period, pursuant to (a)(2), (a)(5) or (b)(2) as applicable. If the OPSC does not receive a valid, original signature copy of the Form SAB 50-05 within the time period:
- (1) The priority funding Apportionment or approved advance release of funds request shall be rescinded without further Board action, and
 - (2) If the ~~a~~Application is not subject to rescission pursuant to Section 1859.90.3(c) as defined in Section 1859.90.3(d), the ~~a~~Application shall return to the Unfunded List (Lack of AB 55 Loans) with a new unfunded approval date that is 90 calendar days from the date of Apportionment or approval of the advance release of funds request.
- (d) In the event that the amount of requests received during a specific 30-calendar day filing period exceeds the funds available, the Board shall apportion based on the unfunded approval date and the ~~a~~Application received date up to the available cash from each bond source. Projects that have requested to participate in the priority funding process for which an Apportionment cannot be provided shall retain their date order position on the Unfunded List (Lack of AB 55 Loans). Requests not converted to ~~a~~Apportionments will not be returned to the district or kept by the OPSC.
- (e) For purposes of this section “rescinded” or “rescission” shall mean that the ~~a~~Apportionment or approved advance release of funds request returns to unfunded approval status with a new unfunded approval date, except for (a)(5)(A). The new unfunded approval date will be 90 calendar days from the ~~a~~Apportionment date. The district or charter school will not be required to re-submit the ~~a~~Application and no further ~~a~~Application review will be required.

SFP Regulation Section 1859.90.3. Participation in the Priority Funding Process.

This section applies ~~only~~ to ~~a~~Applications for funding for new construction, modernization, Overcrowding Relief Grant, Career Technical Education Facilities Program, Facility Hardship pursuant to Section 1859.82 and rehabilitation pursuant to Section 1859.83(e), and Charter School Facilities Program, excluding advance release of design and/or site acquisition funds from a Preliminary Charter School Apportionment, ~~and specifically excludes applications for the Charter School Facilities and Career Technical Education Facilities Programs.~~

- (a) For each ~~a~~Application on the Unfunded List (Lack of AB 55 Loans) for new construction, modernization, Facility Hardship pursuant to Section 1859.82 or rehabilitation pursuant to Section 1859.83(e), the occurrences of (1) or (2) below shall be limited after the effective date of this regulation section [March 25, 2013]. For each Application on the Unfunded List (Lack of AB 55 Loans) for Overcrowding Relief Grant, Career Technical Education Facilities Program, and Charter School Facilities Program, excluding advance release of design and/or site acquisition funds from a Preliminary Charter School Apportionment, the occurrences of (1) or (2) below shall be limited after the effective date of this regulation section [XXX, 2014]:
- (1) The district abstains from participating in a priority funding 30-calendar day filing period described in Section 1859.90.2 for the ~~a~~Application on the Unfunded List (Lack of AB 55 Loans).

ATTACHMENT D

(2) The aApplication receives a priority funding Apportionment pursuant to Section 1859.90.2(a), and the district fails to meet the fund release requirements pursuant to Section 1859.90.2(c).

(b) The first occurrence of (a)(1) or (a)(2) shall result in the following, as applicable:

(1) If (a)(1) occurs, the aApplication shall retain its place on the Unfunded List (Lack of AB 55 Loans).

(2) If (a)(2) occurs, the priority funding Apportionment shall be rescinded and the aApplication shall be returned to the Unfunded List (Lack of AB 55 Loans) pursuant to Section 1859.90.2(c)(2).

(c) If subsection (b) has occurred, a subsequent occurrence of either (a)(1) or (a)(2) shall result in the rescission of the aApplication's Apportionment and/or unfunded approval, as applicable, and the removal of the aApplication from the Unfunded List (Lack of AB 55 Loans) without further Board action. The aApplication shall be returned to the applicant.

(d) For purposes of subsection (c), "rescinded" or "rescission" of an unfunded approval shall mean that the bond authority associated with the Apportionment or unfunded approval, as applicable, returns to the appropriate School Facility Program bond authority source for reallocation. If applicable, the pupils housed in the project will be added back to the district's baseline eligibility pursuant to Sections 1859.51(d) for new construction or 1859.61(d) for modernization.

SFP Regulation Section 1859.193

A Career Technical Education Facilities Project may construct a new facility or modernize or Reconfigure an existing school building. The aApplication for Career Technical Education Facility funding may accompany an aApplication for new construction funding pursuant to Section 1859.70 or may be submitted independently. The applicant must identify square footage of the Career Technical Education Facility being constructed, modernized, reconfigured or equipped, on the funding aApplication. Equipment purchased under the Career Technical Education Facilities Program must have an average useful life expectancy of at least ten years pursuant to Education Code 17078.72(a). An aApplication for a Career Technical Education Facilities Project may consist entirely of equipment. All equipment must be purchased on or after May 20, 2006, unless the Career Technical Education Facilities Project is combined with a qualifying SFP new construction project pursuant to Section 1859.193.1.

....

(d) If an applicant meets the eligibility criteria in Section 1859.192, but does not have the necessary approvals from the DSA and/or the CDE at the time of aApportionment, the Board may apportion funds for the Career Technical Education Facilities Project and reserve them for a period of up to 12 months. The grant amount to be reserved for the project will be the maximum funding as determined above in (a), (b), or (c).

(e) Funding provided as prescribed in Section 1859.71.6 and Section 1859.77.4 shall not be affected by the maximum funding determinations listed above.

Section 1859.197. Fund Release Process.

The OPSC will release State funds that have been apportioned by the Board pursuant to Sections 1859.195 and 1859.196 after submittal by the applicant of the Form SAB 50-05.

(a) If an aApportionment was made for a Career Technical Education Facilities Project, the applicant must submit a Form SAB 50-05 within 18 months of the Apportionment as outlined in Education Code Section 17076.10 or the aApportionment shall be rescinded without further Board action.

(b) If Career Technical Education Facilities funds were reserved for the applicant pursuant to Section 1859.193(d) of these Regulations, the applicant:

(1) Has one year from the date of aApportionment to submit the CDE plan approval and DSA-approved plans and specifications, as required, to the OPSC for the Career Technical Education Facilities Project, otherwise the aApportionment shall be rescinded without further Board action.

ATTACHMENT D

(2) Has 18 months from the date the CDE plan approval and DSA-approved plans and specifications, as needed, are submitted to the OPSC to submit a completed Form SAB 50-05 or the ~~a~~Apportionment shall be rescinded without further Board action. If the district is requesting an ~~a~~Apportionment pursuant to Section 1859.90.1 or 1859.90.2, the Board will require that this time limit be reduced to no more than 90 days from the date of the ~~a~~Apportionment.

(c) For an Apportionment received pursuant to Section 1859.90.2 where submittal of the necessary CDE plan approval and/or DSA-approved plans and specifications were not required at the time the Board granted an unfunded approval, then the applicant:

(1) Has up to six months to submit the required approvals from the date of Apportionment. If the required submittal(s) is not received within six months, the Apportionment shall be rescinded without further Board action and the Career Technical Education Facilities bond authority will return to the program for reallocation.

(2) The submittal date in (c)(1) shall start the 90 calendar day fund release process in Section 1859.90.2.

~~(e)~~(d) If the applicant requires a loan for the entire matching share requirement pursuant to Section 1859.194(b) of these Regulations:

(1) Subject to the availability of financing provided by the Pooled Money Investment Board for bond-funded projects, the OPSC will release ten percent of the Career Technical Education Facilities grant to the applicant within 30 calendar days of the ~~a~~Apportionment.

(2) The applicant has one year from the date of ~~a~~Apportionment to submit the CDE plan approval and DSA-approved plans and specifications, as required, to the OPSC for the Career Technical Education Facilities Project, otherwise the ~~a~~Apportionment shall be rescinded without further Board action.

(3) The applicant has 18 months from the date in ~~(e)~~(2)~~(d)~~(2) to submit a completed Form SAB 50-05 or the ~~a~~Apportionment shall be rescinded without further Board action.

~~(d)~~(e) If the district is requesting an Apportionment pursuant to Section 1859.90.1 or 1859.90.2 and if the district is requesting funding as prescribed in Section 1859.71.6 or Section 1859.77.4, as applicable, then the district must submit the necessary approvals from the DSA and/or the CDE, as applicable, at least 90 days prior to requesting an Apportionment.

~~(e)~~(f) If the district receives an Apportionment pursuant to (a) or (b) and if the district is requesting funding as prescribed in Section 1859.71.6 or Section 1859.77.4, as applicable, then the district must submit the necessary approvals from the DSA and/or the CDE, as applicable, at least 90 days prior to receiving an Apportionment.

~~(f)~~(g) The applicant is subject to substantial progress time limit on the ~~a~~Apportionment as outlined in Education Code Section 17076.10(b).

~~(g)~~(h) In the event the Board determines there is a fiscal emergency or crisis on the part of the State of California, the Board may grant an extension not to exceed 12 months to the time limit prescribed in (b)(1) and ~~(e)~~(d)(2) above and Section 1859.193(d). Regulation Section 1859.197~~(g)~~(h) shall become inoperative January 1, 2010.

ATTACHMENT E

Proposed Regulatory Amendments

Section 1859.90.2. Priority Funding Process.

The priority funding process allows the Board to distribute available funds to districts or charter schools that request, pursuant to (a) or (b) below, as applicable, an Apportionment or an advance release of funds from a Preliminary Apportionment or Preliminary Charter School Apportionment, during specific 30-calendar day filing periods beginning with July 27, 2011 and continuing with the 2nd Wednesday of January and the 2nd Wednesday of July of 2012. Requests submitted during the filing periods described above are valid until the next filing period begins. The specific 30-calendar day filing periods subsequent to 2012 begin with January 9, 2013 and continue with the 2nd Wednesday of May and the 2nd Wednesday of November, each calendar year. Requests submitted during the filing period beginning with January 9, 2013 are valid until June 30, 2013. Requests submitted during a filing period beginning with the 2nd Wednesday of May are valid from July 1 until December 31 of that year. Requests submitted during a filing period beginning with the 2nd Wednesday in November are valid from January 1 until June 30 of the following year. Requests must be physically received by the OPSC by the 30th calendar day of each filing period to be considered valid.

(a) In order to be considered for an Apportionment, approved advance release of design funds from a Preliminary Charter School Apportionment, or approved advance release of environmental hardship site acquisition funds from a Preliminary Apportionment, the district or charter school must provide a priority funding request in the form of a written statement signed by an authorized representative that includes each of the project aApplication numbers, and the type of aApportionment request (e.g., Apportionment, separate aApportionment for design or site acquisition), within the 30-calendar day filing period, and shall contain all of the following:

- (1) Statement that the request is to convert the unfunded approval to an Apportionment or to receive an approved advance release of funds; and
- (2) Acknowledgement that a valid, original signature Form SAB 50-05 must be submitted and physically received by the OPSC within 90 calendar days of Apportionment or approved advance release of funds request, except for a Career Technical Education Facilities Project in (a)(5), and that failure to do so will result in the rescission of the Apportionment or approved advance release of funds request without further Board action; and
- (3) Acknowledgement that, if the district submits the Form SAB 50-05 on or after July 1, 2013 and is required to submit an LCP third party report, pursuant to Section 1859.97(b), the report will be submitted to the OPSC and the DIR at least 60 days prior to submitting the Form SAB 50-05; and
- (4) For those receiving an Apportionment, acknowledgement that by participating in the priority funding process, the district or charter school is waiving its right to the 18 month timeline for fund release submittal described in Section 1859.90.

(5) For a Career Technical Education Facilities Project that was granted an unfunded approval without the required CDE plan approval and/or required DSA-approved plans and specifications, the applicant's request must include:

- (A) Acknowledgement that the applicant must submit the required approval(s) to the OPSC within 12 months from the date of the Apportionment. If the required submittal(s) is not received within 12 months, the Apportionment shall be rescinded without further Board action pursuant to Section 1859.197 (c)(1); and
- (B) Acknowledgment that a valid, original signature Form SAB 50-05 must be submitted and physically received by the OPSC within 90 calendar days of the submittal described in (5)(A) and that failure to do so will result in the rescission of the Apportionment without further Board action.

(b) In order to be considered for an approved advance release of site acquisition funds from a Preliminary Charter School Apportionment, the district or charter school must provide a priority funding request in the form of a written statement signed by an authorized representative within the 30-calendar day filing period, and shall contain all of the following:

ATTACHMENT E

- (1) Statement that the request is to convert the advance release of funds to an approved advance release of funds request; and,
 - (2) Acknowledgement that a valid, original signature Form SAB 50-05 must be submitted and physically received by the OPSC within 180 calendar days of the approved advance release of funds request and that failure to do so will result in the rescission of the approved advance release of funds request without further Board action; and
 - (3) Acknowledgement that it must provide evidence that it has entered into the Charter School Agreements within 90 calendar days of approval of the advance release of funds request and that failure to do so will result in the rescission of the approval without further Board action.
- (c) If a district or charter school receives an Apportionment or approved advance release of funds request through the priority funding process, the OPSC must receive a valid, original signature copy of the Form SAB 50-05 within the specified time period, pursuant to (a)(2), (a)(5) or (b)(2) as applicable. If the OPSC does not receive a valid, original signature copy of the Form SAB 50-05 within the time period:
- (1) The priority funding Apportionment or approved advance release of funds request shall be rescinded without further Board action, and
 - (2) If the ~~a~~Application is not subject to rescission pursuant to Section 1859.90.3(c) as defined in Section 1859.90.3(d), the ~~a~~Application shall return to the Unfunded List (Lack of AB 55 Loans) with a new unfunded approval date that is 90 calendar days from the date of Apportionment or approval of the advance release of funds request.
- (d) In the event that the amount of requests received during a specific 30-calendar day filing period exceeds the funds available, the Board shall apportion based on the unfunded approval date and the ~~a~~Application received date up to the available cash from each bond source. Projects that have requested to participate in the priority funding process for which an Apportionment cannot be provided shall retain their date order position on the Unfunded List (Lack of AB 55 Loans). Requests not converted to ~~a~~Apportionments will not be returned to the district or kept by the OPSC.
- (e) For purposes of this section “rescinded” or “rescission” shall mean that the ~~a~~Apportionment or approved advance release of funds request returns to unfunded approval status with a new unfunded approval date, except for (a)(5)(A). The new unfunded approval date will be 90 calendar days from the ~~a~~Apportionment date. The district or charter school will not be required to re-submit the ~~a~~Application and no further ~~a~~Application review will be required.

SFP Regulation Section 1859.90.3. Participation in the Priority Funding Process.

This section applies ~~only~~ to ~~a~~Applications for funding for new construction, modernization, Overcrowding Relief Grant, Career Technical Education Facilities Program, Facility Hardship pursuant to Section 1859.82 and rehabilitation pursuant to Section 1859.83(e), and Charter School Facilities Program, excluding advance release of design and/or site acquisition funds from a Preliminary Charter School Apportionment, and specifically excludes applications for the Charter School Facilities and Career Technical Education Facilities Programs.

- (a) For each ~~a~~Application on the Unfunded List (Lack of AB 55 Loans) for new construction, modernization, Facility Hardship pursuant to Section 1859.82 or rehabilitation pursuant to Section 1859.83(e), the occurrences of (1) or (2) below shall be limited after the effective date of this regulation section [March 25, 2013]. For each Application on the Unfunded List (Lack of AB 55 Loans) for Overcrowding Relief Grant, Career Technical Education Facilities Program, and Charter School Facilities Program, excluding advance release of design and/or site acquisition funds from a Preliminary Charter School Apportionment, the occurrences of (1) or (2) below shall be limited after the effective date of this regulation section [XXX, 2014]:

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- (1) The district abstains from participating in a priority funding 30-calendar day filing period described in Section 1859.90.2 for the aApplication on the Unfunded List (Lack of AB 55 Loans).
- (2) The aApplication receives a priority funding Apportionment pursuant to Section 1859.90.2(a), and the district fails to meet the fund release requirements pursuant to Section 1859.90.2(c).
- (b) The first occurrence of (a)(1) or (a)(2) shall result in the following, as applicable:
 - (1) If (a)(1) occurs, the aApplication shall retain its place on the Unfunded List (Lack of AB 55 Loans).
 - (2) If (a)(2) occurs, the priority funding Apportionment shall be rescinded and the aApplication shall be returned to the Unfunded List (Lack of AB 55 Loans) pursuant to Section 1859.90.2(c)(2).
- (c) If subsection (b) has occurred, a subsequent occurrence of either (a)(1) or (a)(2) shall result in the rescission of the aApplication's Apportionment and/or unfunded approval, as applicable, and the removal of the aApplication from the Unfunded List (Lack of AB 55 Loans) without further Board action. The aApplication shall be returned to the applicant.
- (d) For purposes of subsection (c), "rescinded" or "rescission" of an unfunded approval shall mean that the bond authority associated with the Apportionment or unfunded approval, as applicable, returns to the appropriate School Facility Program bond authority source for reallocation. If applicable, the pupils housed in the project will be added back to the district's baseline eligibility pursuant to Sections 1859.51(d) for new construction or 1859.61(d) for modernization.

SFP Regulation Section 1859.193

A Career Technical Education Facilities Project may construct a new facility or modernize or Reconfigure an existing school building. The aApplication for Career Technical Education Facility funding may accompany an aApplication for new construction funding pursuant to Section 1859.70 or may be submitted independently. The applicant must identify square footage of the Career Technical Education Facility being constructed, modernized, reconfigured or equipped, on the funding aApplication. Equipment purchased under the Career Technical Education Facilities Program must have an average useful life expectancy of at least ten years pursuant to Education Code 17078.72(a). An aApplication for a Career Technical Education Facilities Project may consist entirely of equipment. All equipment must be purchased on or after May 20, 2006, unless the Career Technical Education Facilities Project is combined with a qualifying SFP new construction project pursuant to Section 1859.193.1.

....

- (d) If an applicant meets the eligibility criteria in Section 1859.192, but does not have the necessary approvals from the DSA and/or the CDE at the time of aApportionment, the Board may apportion funds for the Career Technical Education Facilities Project and reserve them for a period of up to 12 months. The grant amount to be reserved for the project will be the maximum funding as determined above in (a), (b), or (c).
- (e) Funding provided as prescribed in Section 1859.71.6 and Section 1859.77.4 shall not be affected by the maximum funding determinations listed above.

Section 1859.197. Fund Release Process.

The OPSC will release State funds that have been apportioned by the Board pursuant to Sections 1859.195 and 1859.196 after submittal by the applicant of the Form SAB 50-05.

- (a) If an aApportionment was made for a Career Technical Education Facilities Project, the applicant must submit a Form SAB 50-05 within 18 months of the Apportionment as outlined in Education Code Section 17076.10 or the aApportionment shall be rescinded without further Board action.

ATTACHMENT E

(b) If Career Technical Education Facilities funds were reserved for the applicant pursuant to Section 1859.193(d) of these Regulations, the applicant:

(1) Has one year from the date of ~~a~~Apportionment to submit the CDE plan approval and DSA-approved plans and specifications, as required, to the OPSC for the Career Technical Education Facilities Project, otherwise the ~~a~~Apportionment shall be rescinded without further Board action.

(2) Has 18 months from the date the CDE plan approval and DSA-approved plans and specifications, as needed, are submitted to the OPSC to submit a completed Form SAB 50-05 or the ~~a~~Apportionment shall be rescinded without further Board action. If the district is requesting an ~~a~~Apportionment pursuant to Section 1859.90.1 or 1859.90.2, the Board will require that this time limit be reduced to no more than 90 days from the date of the ~~a~~Apportionment.

(c) For an Apportionment received pursuant to Section 1859.90.2 where submittal of the necessary CDE plan approval and/or DSA-approved plans and specifications were not required at the time the Board granted an unfunded approval, then the applicant:

(1) Has up to 12 months to submit the required approvals from the date of Apportionment. If the required submittal(s) is not received within 12 months, the Apportionment shall be rescinded without further Board action and the Career Technical Education Facilities bond authority will return to the program for reallocation.

(2) The submittal date in (c)(1) shall start the 90 calendar day fund release process in Section 1859.90.2.

~~(e)~~(d) If the applicant requires a loan for the entire matching share requirement pursuant to Section 1859.194(b) of these Regulations:

(1) Subject to the availability of financing provided by the Pooled Money Investment Board for bond-funded projects, the OPSC will release ten percent of the Career Technical Education Facilities grant to the applicant within 30 calendar days of the ~~a~~Apportionment.

(2) The applicant has one year from the date of ~~a~~Apportionment to submit the CDE plan approval and DSA-approved plans and specifications, as required, to the OPSC for the Career Technical Education Facilities Project, otherwise the ~~a~~Apportionment shall be rescinded without further Board action.

(3) The applicant has 18 months from the date in ~~(e)~~(2)~~(d)~~(2) to submit a completed Form SAB 50-05 or the ~~a~~Apportionment shall be rescinded without further Board action.

~~(d)~~(e) If the district is requesting an Apportionment pursuant to Section 1859.90.1 or 1859.90.2 and if the district is requesting funding as prescribed in Section 1859.71.6 or Section 1859.77.4, as applicable, then the district must submit the necessary approvals from the DSA and/or the CDE, as applicable, at least 90 days prior to requesting an Apportionment.

~~(e)~~(f) If the district receives an Apportionment pursuant to (a) or (b) and if the district is requesting funding as prescribed in Section 1859.71.6 or Section 1859.77.4, as applicable, then the district must submit the necessary approvals from the DSA and/or the CDE, as applicable, at least 90 days prior to receiving an Apportionment.

~~(f)~~(g) The applicant is subject to substantial progress time limit on the ~~a~~Apportionment as outlined in Education Code Section 17076.10(b).

~~(g)~~(h) In the event the Board determines there is a fiscal emergency or crisis on the part of the State of California, the Board may grant an extension not to exceed 12 months to the time limit prescribed in (b)(1) and ~~(e)~~(d)(2) above and Section 1859.193(d). Regulation Section 1859.197~~(g)~~(h) shall become inoperative January 1, 2010.

ATTACHMENT F

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, January 22, 2014

CONSIDERATION OF ADDITIONAL PROGRAMS REQUIRED TO PARTICIPATE IN THE PRIORITY FUNDING PROCESS

PURPOSE OF REPORT

To present options for the State Allocation Board's (Board) consideration to include the Overcrowding Relief Grant (ORG), Career Technical Education Facilities Program (CTEFP), and Charter School Facilities Program (CSFP) applications in the School Facility Program (SFP) Regulations that outline the criteria for participation in the priority funding process.

DESCRIPTION

The Board adopted regulations in January 2013 that established the requirement for participation in the priority funding process for projects funded from new construction and modernization bond authority, as bond authority for these programs was exhausted. The projects on the Unfunded List (Lack of AB 55 Loans) from these programs are subject to a limited number of times an applicant may not to participate in priority funding cycles without being rescinded. CSFP and CTEFP projects are currently specifically excluded from this requirement while ORG projects are not addressed in the regulation. Bond authority for the ORG and CTEFP are nearly depleted. Another filing round for the CSFP was recently established in order to allocate available authority. Staff is seeking Board direction on whether to add these program projects to the priority funding participation requirements outlined in SFP Regulation Section 1859.90.3.

AUTHORITY

See Attachment A.

BACKGROUND

At the June 2012 meeting, Staff presented a report providing information on projects on the Unfunded List (Lack of AB 55 Loans) that have not participated in the priority funding process. At the October 2012 meeting, the Board discussed options and directed Staff bring back regulatory amendments to address this issue. This item is included as Attachment B for reference. On January 23, 2013, the Board approved regulatory amendments to add SFP Regulation Section 1859.90.3, which outlines the participation requirements for the priority funding process for new construction and modernization applications, including Facility Hardship and Rehabilitation. The bond authority for these programs was exhausted. The goal of the new regulations was to ensure that the bond authority reserved by these projects would be used for construction-ready projects or be made available for other projects that are construction-ready.

Beginning with the May 2013 priority funding cycle, an applicant electing to not participate in priority funding by either not submitting a valid priority funding request in the 30-day filing period or by submitting a valid priority funding request, but failing to submit a valid *Fund Release Authorization* (Form SAB 50-05) to request the release of funds after the Board approves an apportionment, is subject to the application being rescinded without further Board action upon the second occurrence of either of the scenarios. The first time an application fails to submit a fund release request within the required time frame after receiving a priority funding apportionment, it returns to the Unfunded List (Lack of AB 55 Loans) and with a new unfunded approval date equal to the fund release request submittal deadline.

(Continued on Page Two)

BACKGROUND (cont.)

As required by statute (Education Code (EC) Section 101012) and regulations, funds are returned to the programs from which they were originally allocated. This may result in funds being available for additional projects. CSFP and CTEFP projects are specifically excluded from these participation regulations. ORG projects are not addressed in the regulation.

Status of the Overcrowding Relief Grant Program

The Office of Public School Construction (OPSC) received 14 applications for the twelfth funding cycle on July 31, 2013. They were processed based upon the highest density of the eligible schools that have submitted an approved application, pursuant to SFP Regulation Section 1859.184. There was approximately \$40.4 million in bond authority available for this cycle. On November 25, 2013, the Board approved \$31.7 million in unfunded approvals for five projects. This included \$29.9 million in ORG program grants and \$1.8 million in High Performance Incentive grants. There is one additional project that will be presented in a future agenda. After that project is approved, the remaining funds will be insufficient to fully fund the next project on the list. Therefore, Staff is presenting options to the Board at a future meeting to address the remaining eight applications.

Status of the Career Technical Education Facilities Program

The third CTEFP funding cycle is currently oversubscribed by 55 applications totaling a requested amount of \$78.1 million. As funds from rescissions and loan payments have been returning to the CTEFP, Staff has been presenting additional third cycle projects for unfunded approval. There is approximately \$3.5 million currently available to allocate in the future.

Status of the Charter School Facilities Program

On November 25, 2013, the Board approved a new filing round for the CSFP. The application filing period will open on April 1, 2014 and close on May 30, 2014. There is approximately \$87.7 million in bond authority currently available to allocate in the future.

STAFF ANALYSIS/STATEMENTS

Staff is presenting the ORG, CTEFP and CSFP programs for consideration to include in the participation requirements for the priority funding process to promote activity on the Unfunded List (Lack of AB 55 Loans) and equity among the programs. In January 2013, the Board approved the initial regulation amendments, and the CTEFP and CSFP were specifically excluded due to their unique timelines. At that time, the ORG program had two funding cycles scheduled and bond authority available for them. Currently, however, the ORG and CTEFP are oversubscribed; there are more funding applications than bond authority available to allocate. The specific circumstances of each program are presented below.

Overcrowding Relief Grant Program

As of November 25, 2013, bond authority for the ORG program was nearly exhausted. There are currently 23 individual ORG funding applications on the Unfunded List (Lack of AB 55 Loans) totaling \$153.1 million.* Of those, 15 projects received an unfunded approval in 2013 and nine submitted requests to participate in the upcoming priority funding round.* At this time, ORG projects are not addressed in SFP Regulation Section 1859.90.3 and are not subject to any participation requirements in the priority funding process.

*Funding applications may appear more than once on the Unfunded List (Lack of AB 55 Loans) due to adjustments received after the initial approval. These statements include only counts based on the date of the initial approval.

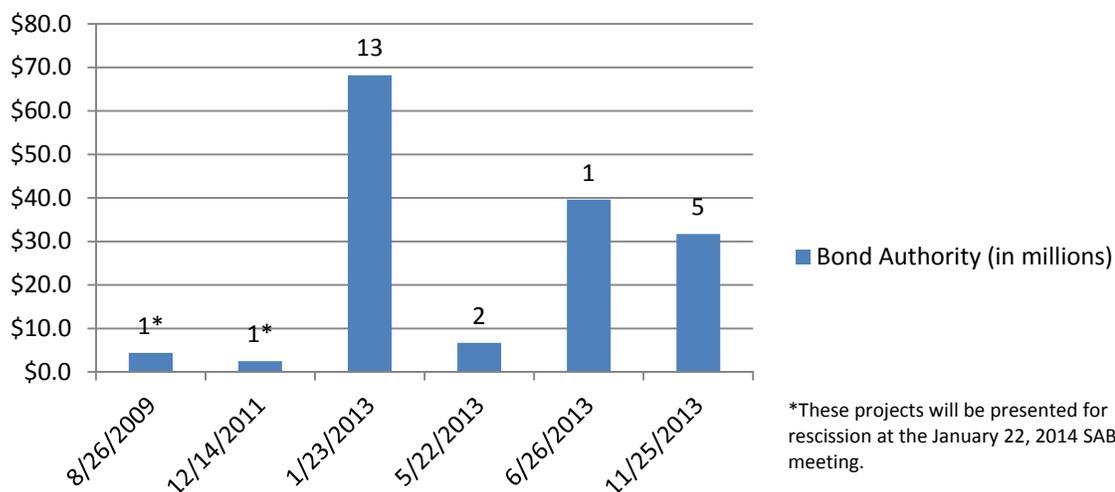
(Continued on Page Three)

STAFF ANALYSIS/STATEMENTS (cont.)

The addition of ORG projects to this Regulation would prevent the possibility of stagnant projects remaining on the Unfunded List (Lack of AB 55 Loans) indefinitely. While the majority of the ORG projects on the Unfunded List (Lack of AB 55 Loans) received an approval in 2013, 12 out of the 23 have already not participated in three priority funding filing rounds. The Board could amend SFP Regulation Section 1859.90.3 to include ORG projects on the list of project types that are subject to the priority funding participation requirements set forth therein. This action would help to ensure that limited bond authority is used for construction ready projects and would be consistent with the Board’s past action for new construction and modernization when bond authority was exhausted.

The chart below illustrates the number of ORG projects currently on the Unfunded List (Lack of AB 55 Loans), the amount of bond authority reserved and the dates these projects were approved by the Board. From August 2009 to November 2013, eight priority filing periods were open for 30 calendar days each.

ORG Projects on the Unfunded List (Lack of AB 55 Loans)
\$153.1 Million in Bond Authority



Career Technical Education Facilities Program

There are currently 51 individual CTEFP projects on the Unfunded List (Lack of AB 55 Loans) totaling \$57.5 million.* More than half of these projects have been on the list since October 2010. The remainder was subsequently added on various dates as CTEFP bond authority returned from loan repayments and rescissions. The Board originally excluded these projects from the participation requirements for priority funding due to the unique timelines afforded some of these projects to obtain the necessary DSA and CDE approvals of plans and specifications. SFP Regulation Section 1859.193(d) allows the applicant to request 12 months to submit the required approvals from the date of an *apportionment* by the Board (emphasis added).

*Funding applications may appear more than once on the Unfunded List (Lack of AB 55 Loans) due to adjustments received after the initial approval. These statements include only counts based on the date of the initial approval.

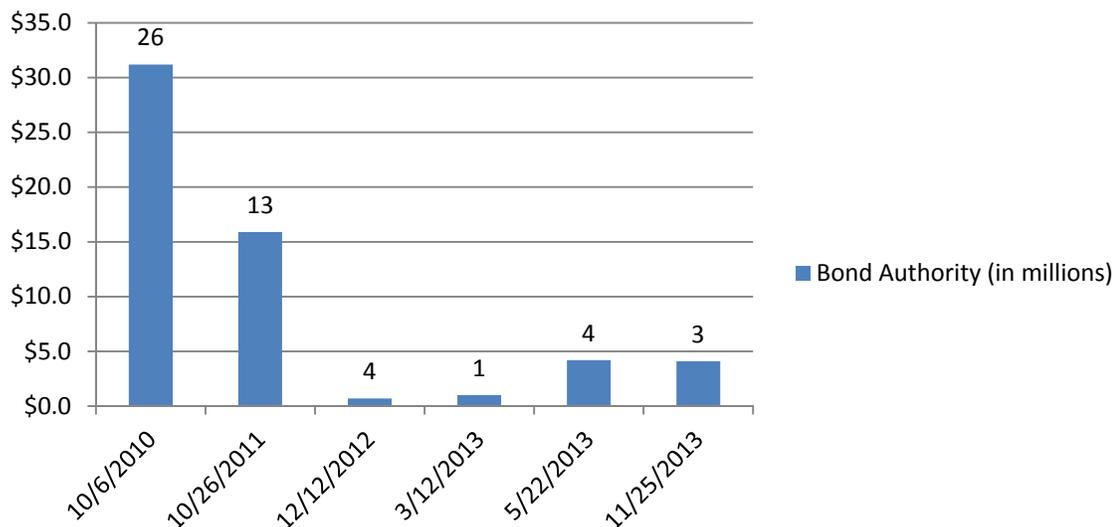
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STAFF ANALYSIS/STATEMENTS (cont.)

Without an apportionment, there is not a trigger to begin the 12-month timeline to submit the required documents. The only way to receive an apportionment is to participate in priority funding, which is voluntary. Without participation in the priority funding process, these projects could remain on the Unfunded List (Lack of AB 55 Loans) indefinitely. Including CTEFP projects in SFP Regulation Section 1859.90.3 would help to ensure that limited bond authority is used for construction ready projects and would be consistent with the Board's past action for new construction and modernization when bond authority was exhausted.

The chart below illustrates the number of CTEFP projects currently on the Unfunded List (Lack of AB 55 Loans), the amount of bond authority reserved and the dates these projects were approved by the Board. From October 2010 to November 2013, eight priority funding filing periods were open for 30 calendar days each.

**CTEFP Projects on the Unfunded List (Lack of AB 55 Loans)
\$57.5 Million in Bond Authority**



Charter School Facilities Program

Currently there are six CSFP conversion project unfunded approvals totaling \$38.8 million on the Unfunded List (Lack of AB 55 Loans). The Board originally excluded CSFP projects due to the unique timelines of the program. However, these timelines only apply to the period between preliminary apportionment and conversion to a full grant application. At the time of conversion, these projects are similar to new construction or modernization unfunded approvals, as they have met all of the same requirements. While CSFP applicants must meet additional requirements prior to receiving a fund release, the projects were held to the same 18 month time limit on fund release as new construction and modernization projects prior to the onset of the fiscal crisis.

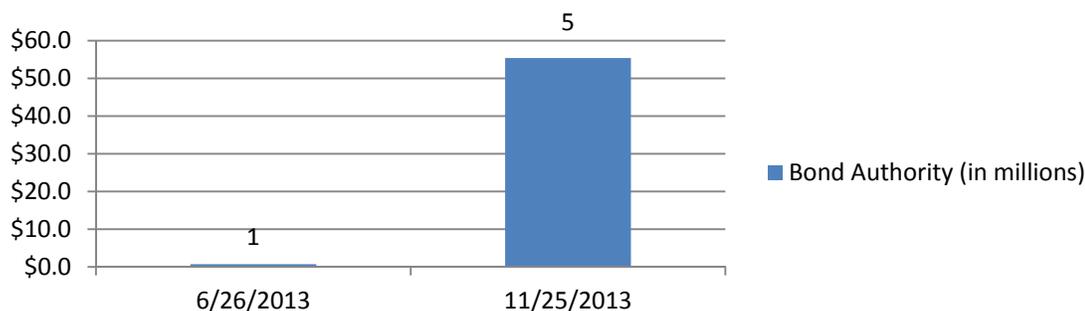
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STAFF ANALYSIS/STATEMENTS (cont.)

There is currently no mechanism to require participation in priority funding for a CSFP conversion project. Without such a requirement, a CSFP conversion project could remain on the Unfunded List (Lack of AB 55 Loans) indefinitely, tying up authority that could be used for other CSFP purposes. While the unfunded approvals for these projects were recently provided, the Board may wish to consider amending the SFP Regulations to require these projects to participate in the priority funding process to promote equity for all programs under the SFP.

The chart below illustrates the number of CSFP projects currently on the Unfunded List (Lack of AB 55 Loans), the dates they were approved by the Board, and the amount of bond authority reserved. From June to November 2013, one priority funding filing round was open for 30 calendar days.

CSFP Projects on the Unfunded List (Lack of AB 55 Loans)
\$38.8 Million in Bond Authority



There are also eight design and site advance fund releases totaling \$17.8 million on the Unfunded List (Lack of AB 55 Loans). Staff is not proposing to include these items in the requirements for participation in the priority funding process. The existing statutory time limits already act as a mechanism to rescind the entire preliminary apportionment if an applicant does not request the funds.

Summary

The ORG and CTEFP are currently oversubscribed. Subjecting projects in these two programs to the participation requirements for the priority funding process could ensure that bond authority is available for construction ready projects. It would also prevent projects that are not moving forward from reserving bond authority indefinitely. In addition, this action would be consistent with the action taken when bond authority was exhausted for new construction and modernization. Finally, adding CSFP conversion projects to these requirements would promote equity in the priority funding process by establishing the same rules for all projects.

ATTACHMENT F

STAFF ANALYSIS/STATEMENTS (cont.)

The chart below provides summary of the projects on the Unfunded List (Lack of AB 55 Loans) for the three programs. In addition, the complete Unfunded List (Lack of AB 55 Loans) as of November 25, 2013 is included as Attachment C with the three programs' applications highlighted in distinctive colors for reference.

Program	# of Projects on Unfunded List (Lack of AB 55 Loans)	Number of Requests Received during recent PF Filing Round	Number of PF Filing Rounds Bypassed	Remaining Bond Authority as reported on the Status Of Funds
ORG	15	9	3	\$18.9 million
CTEFP	51	9	7	\$3.5 million
CSFP	6 (conversions)	6	0	\$87.7 million

OPTIONS

Staff has compiled the following options for the Board's consideration to promote activity on the list of unfunded approvals and equity among the various programs. These options address each program separately. Therefore, the Board may choose one or more of the following options.

Option #1 – Approve regulatory amendments to SFP Regulation Section 1859.90.3 to include ORG projects.

This option would include ORG projects in the priority funding participation requirements set forth in SFP Regulation Section 1859.90.3. Returning authority could be used for other ORG projects.

Issues and Concerns

- Projects currently on the unfunded list were approved in accordance with the regulations in effect at the time the applications were submitted.
 - If the Board wished to apply the change prospectively, the impact would be minimal as ORG bond authority is all but depleted.
- If a district is required to submit a priority funding request while the State does not have cash available, districts may need to plan without knowing when they can expect funds.
- Some districts may have limited time to start the bid process if the cannot go out to bid without a guarantee of State cash.

Option #2 - Approve regulatory amendments to SFP Regulation Section 1859.90.3 to include CTEFP projects.

This option would include all CTEFP projects in the priority funding participation requirements set forth in SFP Regulation Section 1859.90.3. All CTEFP projects, including reservation of funds projects, would be subject to Priority Funding participation guidelines immediately upon placement on the Unfunded List (Lack of AB 55 Loans). Returning authority could only be used for CTEFP projects.

ATTACHMENT F

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OPTIONS (cont.)

Issues and Concerns

- Projects currently on the unfunded list were approved in accordance with the regulations in effect at the time the applications were submitted.
 - If the Board wished to apply the change prospectively, the impact would be minimal as CTEFP bond authority is all but depleted.
- If a district is required to submit a priority funding request while the State does not have cash available, districts may need to plan without knowing when they can expect funds.
- Some districts may have limited time to start the bid process if they cannot go out to bid without a guarantee of State cash.

Option #3 – Approve regulatory amendments to SFP Regulation Section 1859.90.3 to include CSFP conversion projects (not including advance design and/or site).

This option would include CTEFP projects in the priority funding participation requirements set forth in SFP Regulation Section 1859.90.3. Returning authority could only be used for charter school purposes.

Issues and Concerns

- Projects currently on the unfunded list were approved in accordance with the regulations in effect at the time the applications were submitted.
- If a district is required to submit a priority funding request while the State does not have cash available, districts may need to plan without knowing when they can expect funds.
- Some districts may have limited time to start the bid process if they cannot go out to bid without a guarantee of State cash.

Option #4 – Take no action

RECOMMENDATION

Seek Board direction.

BOARD ACTION

In considering this Item, the State Allocation Board directed staff to bring the item back with a timeline reflecting proposed effective dates for the regulations for further policy discussion.