

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, October 16, 2014

CHARTER SCHOOL FACILITIES PROGRAM NEW CONSTRUCTION SUPPLEMENTAL GRANT

PURPOSE OF REPORT

To seek State Allocation Board (Board) direction for the Charter School Facilities Program (CSFP) General Site Development grant calculation.

DESCRIPTION

Currently, School Facilities Program (SFP) Regulations for Preliminary Charter School Apportionments provide a different General Site Development supplemental grant calculation than the new construction grant. This results in applications for Preliminary Charter School Apportionment reserving more authority for the General Site Development grant than they receive upon conversion for the same grant.

Staff is requesting the Board to consider granting the applications for the 2014 CSFP Filing Round using a modified calculation for the General Site Development grant that is consistent with how the grant is calculated for new construction projects. Staff is also requesting that the Board consider approving conforming regulatory changes to the Preliminary Charter School Apportionment grant calculation.

AUTHORITY

See Attachment A.

BACKGROUND

By definition, the General Site Development grant provides funding for on-site hard surfaced areas for foot traffic, driveways, walks, parking, curbs and gutters, outdoor instructional play facilities, play areas, permanent playground equipment, outdoor places of assembly, sports fields, and landscaping. SFP Regulation Sections 1859.76(d) and 1859.163.1(a)(4) for the General Site Development supplemental grant for new construction projects and Preliminary Charter School Apportionments were originally approved by the Board at its June 2006 meeting.

When a Preliminary Charter School Apportionment converts to a Final Charter School Apportionment it receives new construction grants, per the *Application for Funding* (Form SAB 50-04). The grant calculations for new construction projects and Preliminary Charter School Apportionments produce differing amounts, due to differing language in the regulations. The original goal of providing Preliminary Apportionments was to reserve grant amounts that would approximate the Final Charter School Apportionment amount.

There have been two CSFP filing rounds since the approval of the General Site Development regulations. Both the Proposition 1D Filing Round and the 2009 Filing Round approved Preliminary Charter School Apportionments with a General Site Development grant amount consistent with the full funding SFP and Final Charter School Apportionment calculation outlined in SFP Regulation Section 1859.76, but inconsistent with the Preliminary Charter School Apportionment regulations.

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STAFF ANALYSIS/STATEMENTS

Differences Between the Grant Calculations

The General Site Development grant calculations currently outlined in SFP Regulation Section 1859.163.1(a)(4) are not consistent with the new construction calculation for the same grant.

New Construction General Site Grant Calculation

SFP Regulation Section 1859.76(d) begins by stating that “the Board shall provide funding equal to 50 percent of the following approved site development and applicable design costs.” It then lists the General Site Development calculation as follows (emphasis added):

- (1) **\$19,200** per Useable Acre as approved by the CDE. This sum may be increased by the percentage identified in Section 1859.83(b). The per acre amount shown above shall be adjusted annually in the manner prescribed in Section 1859.71.
- (2) 6 percent of **the State and district share** for Elementary School Pupils and Middle School Pupils and 3.75 percent of **the State and district share** for High School Pupils of the New Construction Grant. For purposes of this calculation, the percentage amount for Severely Disabled Individuals with Exceptional Needs and Non-Severely Disabled Individuals with Exceptional Needs pupils shall be based on the type of project selected by the district on the Form SAB 50-04.
- (3) 6 percent of **the State and district share** for Elementary School Pupils and Middle School Pupils and 3.75 percent of **the State and district share** for High School Pupils of the funding provided by Sections 1859.71.2, 1859.72, 1859.73, 1859.73.2, 1859.82, 1859.83(a), (b) and (c) and 1859.125(a)(1) through (a)(2).

Charter School Preliminary Apportionment General Site Grant Calculation

SFP Regulation Section 1859.163.1(a)(4) in its entirety lists most of the base and supplemental grants for a CSFP Preliminary Apportionment. It does not state that the grants will be funded at 50 percent, and all of the grants except for the General Site Development grant in that section mirror their counterpart grants for full funding SFP projects and Final Charter School Apportionments. The General Site Development grant reads as follows (emphasis added):

- (A) **\$9,600** per proposed acre requested on the Form SAB 50-09. This sum may be increased pursuant to the provisions in Section 1859.83(b). The per acre amount shown above shall be adjusted annually in the manner prescribed in Section 1859.71.
- (B) 6 percent for Elementary School Pupils and Middle School Pupils and 3.75 percent for High School Pupils of the funding provided by Sections 1859.163.1(a)(1) **multiplied by two**. For purposes of this calculation, the percentage amount for Severely Disabled Individuals with Exceptional Needs and Non-Severely Disabled Individuals with Exceptional Needs pupils shall be based on the type of project selected by the Charter School on the Form SAB 50-09.
- (C) 6 percent for Elementary School Pupils and Middle School Pupils and 3.75 percent for High School Pupils of the funding provided by Sections 1859.163.1(a)(2) and (5) **multiplied by two**.

The lack of language stating that the grants will be provided at 50 percent in Section 1859.163.1 appears to have been partially taken into account, as the per acre allowance in Section 1859.163.1(a)(4)(A) was reduced by half, from \$19,200 in Section 1859.76 to \$9,600. However, no such change was made to Sections 1859.163.1(a)(4)(B) or 1859.163.1(a)(4)(C). While the additional step added with the phrase “multiplied by two” appears to result in the same calculation as Section 1859.76(d)(2) and 1859.76(d)(3), it does not.

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STAFF ANALYSIS/STATEMENTS (cont.)

There is no 50 percent provision in the introductory statement of Sections 1859.163.1(a)(4)(B) or 1859.163.1(a)(4)(C). Therefore, the resulting calculation is double the amount in Sections 1859.76(d)(2) and 1859.76(d)(3). Section 1859.163.1(a)(4)(B) provides a percentage increase to the base grant, while Section 1859.163.1(a)(4)(C) provides a percentage increase to the multilevel and small size supplemental grants, if requested. The following table shows an example of how much difference it can make on an elementary school project with a base grant of \$5 million that requests the multilevel construction (\$600,000), located on a 10 acre site:

Preliminary Apportionment

Final Apportionment

SFP Regulation Section	Calculation	Preliminary Charter School Apportionment Grant
1859.163.1(a)(4)(A)	\$9,600 per usable acre in project	\$96,000 (\$9,600 X 10 acres)
1859.163.1(a)(4)(B)	6% of Base Grant <i>multiplied by two</i>	\$600,000 (\$5 million X 6% X 2)
1859.163.1(a)(4)(C)	6% of Supplemental Grants <i>multiplied by two</i>	\$72,000 (\$600,000 X 6% X 2)
Total General Site Grant		\$768,000

SFP Regulation Section	Calculation	Final Charter School Apportionment Grant
1859.76(d)(1)	\$9,600 per usable acre in project	\$96,000 (\$9,600 X 10 acres)
1859.76(d)(2)	6% of the Base Grant	\$300,000 (\$5 million X 6%)
1859.76(d)(3)	6% of the Supplemental Grants	\$36,000 (\$600,000 X 6%)
Total General Site Grant		\$432,000

Staff recommends removing the words “multiplied by two” to ensure the grants are calculated equally and consistent with the new construction General Site Development grant calculation.

Previous and Current CSFP Filing Rounds

The modified calculation was used for the last two CSFP Filing Rounds, as the discrepancy in the language had not been discovered. The applications that requested the General Site Development grant were provided with the grant amount calculated pursuant SFP Regulation Section 1859.76(d), not the amount in SFP Regulation Section 1859.163.1(a)(4). Staff is requesting authorization to provide the modified grant calculation to the 2014 CSFP Filing Round applications in advance of final adoption of regulatory changes, to ensure consistency in the calculation of grants for all projects.

Proposed Regulatory Amendments

In addition, Staff has prepared proposed regulatory amendments to address this issue. The proposed regulatory amendments shown on Attachment B remove the words “multiplied by two” from SFP Regulation Sections 1859.163.1(a)(4)(B) and 1859.163.1(a)(4)(C). Although these changes make these changes appear less similar to Section 1859.76(d), the end result is that the calculations are the same. Staff is requesting that the Board consider approval of the proposed regulatory changes. The Board previously approved amendments to this regulation section, but those amendments are not yet approved by the Office of Administrative Law (OAL).

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RECOMMENDATIONS

1. Authorize Staff to process the 2014 CSFP Filing Round applications using the modified calculation in the proposed regulations as shown on Attachment B.
2. Adopt the proposed regulations as shown on Attachment B.
3. Authorize the Executive Officer to file the proposed regulations with the OAL.

This Item was approved by the State Allocation Board on October 16, 2014.

ATTACHMENT A

AUTHORITY

Education Code Section 17070.35 states:

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

School Facility Program (SFP) Regulation Section 1859.2 states:

“General Site Development” means on-site hard surfaced areas for foot traffic, driveways, walks, parking, curbs and gutters; outdoor instructional play facilities such as turfed or paved play areas, permanent playground equipment, outdoor places of assembly, tennis/handball courts, running tracks and baseball, football and soccer fields; applicable landscaping of building frontages and outdoor facilities noted above.

SFP Regulation Section 1859.76 states:

In addition to any other funding authorized by these Regulations, the Board shall provide funding equal to 50 percent of the following approved site development and applicable design costs:

....(d) General Site Development costs within school property lines for an addition to an existing school site project wherein additional acreage is acquired, with the exception of existing school site acreage that is leased pursuant to Section 1859.22, or a new school project, determined as follows:

- (1) \$19,200 per Useable Acre as approved by the CDE. This sum may be increased by the percentage identified in Section 1859.83(b). The per acre amount shown above shall be adjusted annually in the manner prescribed in Section 1859.71.
- (2) 6 percent of the State and district share for Elementary School Pupils and Middle School Pupils and 3.75 percent of the State and district share for High School Pupils of the New Construction Grant. For purposes of this calculation, the percentage amount for Severely Disabled Individuals with Exceptional Needs and Non-Severely Disabled Individuals with Exceptional Needs pupils shall be based on the type of project selected by the district on the Form SAB 50-04.
- (3) 6 percent of the State and district share for Elementary School Pupils and Middle School Pupils and 3.75 percent of the State and district share for High School Pupils of the funding provided by Sections 1859.71.2, 1859.72, 1859.73, 1859.73.2, 1859.82, 1859.83(a), (b) and (c) and 1859.125(a)(1) through (a)(2).

SFP Regulation Section 1859.163.1 states:

The Preliminary Charter School New Construction Apportionment shall be determined as follows:

....(a)(4) General Site Development costs within school property lines for an addition to an existing school site project wherein additional acreage is acquired or a new school project, determined as follows:

(A) \$9,600 per proposed acre requested on the Form SAB 50-09. This sum may be increased pursuant to the provisions in Section 1859.83(b). The per acre amount shown above shall be adjusted annually in the manner prescribed in Section 1859.71.

(B) 6 percent for Elementary School Pupils and Middle School Pupils and 3.75 percent for High School Pupils of the funding provided by Sections 1859.163.1(a)(1) multiplied by two. For purposes of this calculation, the percentage amount for Severely Disabled Individuals with Exceptional Needs and Non-Severely Disabled Individuals with Exceptional Needs pupils shall be based on the type of project selected by the Charter School on the Form SAB 50-09.

(C) 6 percent for Elementary School Pupils and Middle School Pupils and 3.75 percent for High School Pupils of the funding provided by Sections 1859.163.1(a)(2) and (5) multiplied by two.

ATTACHMENT A

SFP Regulation Section 1859.165 states:

When a Preliminary Charter School Apportionment is converted to a Final Charter School Apportionment, all the following criteria must be met:

- (a) The Final Charter School Apportionment request must meet all criteria on the Form SAB 50-04.
- (b) A Charter School seeking to convert a Preliminary Charter School Apportionment to a Final Charter School Apportionment shall complete and file Form SAB 50-04. The number of pupils being requested cannot exceed the amount the Charter School originally requested and received at the Preliminary Charter School Apportionment.

The instructions for Part 5 of the *Application for Funding* (Form SAB 50-04) state:

Check the appropriate box(es) if the district requests an augmentation to the new construction grants for “additional” grants for the items listed or for replacement facilities pursuant to Section 1859.82(a) and (b). Refer to Section 1859.72 through 1859.76 and 1859.82(1) and (b) for eligibility criteria.

....(f)....Check the box if the district is requesting an Additional Grant for General Site Development pursuant to Section 1859.76.

ATTACHMENT B

Section 1859.163.1. Preliminary Charter School New Construction Apportionment Determination.

The Preliminary Charter School New Construction Apportionment shall be determined as follows:

(a) The Preliminary Charter School Apportionment for construction costs shall be equal to the sum of (1) through (8) below:

(1) The amounts shown below for each pupil, based on the project capacity, included in a Preliminary Charter School Application:

(A) \$5,227 for each elementary school pupil.

(B) \$5,534 for each middle school pupil.

(C) \$7,226 for each high school pupil.

(D) \$16,653 for each pupil that is a Severely Disabled Individual with Exceptional Needs.

(E) \$11,137 for each pupil that is a Non-Severely Disabled Individual with Exceptional Needs.

(2) An amount equal to 12 percent of the amount determined in (1) for multilevel construction, if requested by the Charter School.

(3) An amount for site development cost determined, at the option of the Charter School, by one of the following:

(A) One-half of the site development cost for the specific site as authorized by Section 1859.76.

(B) One-half of the site development cost as authorized by Section 1859.76 using historical information in the Charter School General Location. Historical information that may be considered to determine this estimated cost may include prior SFP projects of the district or other districts in the Charter School General Location.

(C) \$70,000 multiplied by the proposed acres requested on the Form SAB 50-09.

(4) General Site Development costs within school property lines for an addition to an existing school site project wherein additional acreage is acquired or a new school project, determined as follows:

(A) \$9,600 per proposed acre requested on the Form SAB 50-09. This sum may be increased pursuant to the provisions in Section 1859.83(b). The per acre amount shown above shall be adjusted annually in the manner prescribed in Section 1859.71.

(B) 6 percent for Elementary School Pupils and Middle School Pupils and 3.75 percent for High School Pupils of the funding provided by Sections 1859.163.1(a)(1) ~~multiplied by two~~. For purposes of this calculation, the percentage amount for Severely Disabled Individuals with Exceptional Needs and Non-Severely Disabled Individuals with Exceptional Needs pupils shall be based on the type of project selected by the Charter School on the Form SAB 50-09.

(C) 6 percent for Elementary School Pupils and Middle School Pupils and 3.75 percent for High School Pupils of the funding provided by Sections 1859.163.1(a)(2) and (5) ~~multiplied by two~~.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Sections 17078.52, 17078.58, and 17250.30, Education Code, and Section 1771.3, Labor Code.