REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, April 25, 2007

PROPOSED REGULATIONS RELATED TO THE TRANSFER OF SPECIAL EDUCATION PROGRAMS

PURPOSE OF REPORT

To request:

1. Adoption of proposed amendments to the School Facility Program (SFP) regulations for the implementation of Assembly Bill (AB) 2947, Chapter 585, Statutes of 2006 (Goldberg).
2. Authorization to file the proposed regulations with the Office of Administrative Law (OAL).

BACKGROUND

Prior to the recent code change, when a county office of education (COE) or a school district relinquished title of facilities associated with a Special Education Local Plan Area (SELPA), there was no mechanism for decreasing the classroom capacity of the district whose facilities were being relinquished. On the other hand, the receiving district would have to report the newly acquired facilities, increasing the district's classroom capacity. This would result in the transferred classrooms being counted twice, once in each district's classroom capacity. In addition, the transfer of the pupils and facilities resulting from the transaction would create an artificial decrease in the sending district's eligibility projection.

AUTHORITY

AB 2947 amends Education Code (EC) Section 17071.75 to include provisions (b)(2) and (f).

The State Allocation Board's (SAB) legal counsel has summarized that program and title transfers that took place prior to January 1, 2007 may be adjusted for currently if so requested; however, any program and title transfers that take place after January 1, 2007 are required to be reported to the Office of Public School Construction (OPSC) and the adjustments made accordingly. These adjustments must include the proportional remittance of any financial hardship assistance provided to construct the facilities, if required.

DESCRIPTION

AB 2947 amends EC Section 17071.75 to address the transferring of facilities from a COE to a school district and the impact this would have on their corresponding baseline eligibility. The bill allows for three basic things: the adjustment of school building capacity for qualifying districts and COEs, the adjustment of projected enrollment for qualifying districts and COEs, and the compensation of the State in certain instances when there is a title and facilities transfer. For purposes of this bill, title includes any lease interest of five years or greater.

In the case of a COE, a typical project consists of placing several classrooms on an existing school district's site, usually to serve special education programs administered by the COE, or filing a joint application with a school district for a new school. In the case of the joint filing, the COE typically requests pupil grants for Special Day Class (SDC) pupils, while the district would request pupil grants for the remainder of the K-12 pupils. Conversely, there have also been situations recently where school districts are reassuming the educational responsibilities of administering their own SELPA programs. In this case, there may be a transfer of SFP funded facilities from the COE (the 'grantor') to the school district (the 'grantee'), where the projects are located, resulting in an increase in the grantee's enrollment and a decrease in the grantor's enrollment. Transfers from school district to COE will follow the same methodology.

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STAFF COMMENTS

School building capacity adjustments

AB 2947 will require the existing school building capacity calculation used to determine new construction eligibility to be reduced by the number of pupils that were housed in facilities to which the grantor relinquished title, including a lease interest with a duration of greater than five years, as the result of a transfer of a special education program between a school district and a COE or SELPA, if applicable. If title to the facilities is not relinquished, there is no authority to adjust either entity's school building capacity.

Projected enrollment adjustments

When calculating projected enrollment in these cases, the enrollment calculation of SDC pupils receiving special education services is adjusted in the enrollment reporting period in which the transfer occurs and three previous school years as a result of any transfer of a special education program between a school district and a COE or a SELPA. The law limits the adjustment of the projected enrollment calculation of the grantor to instances in which a transfer of title for the special education program facilities has occurred.

Adjustment timeframes

The transfer of a special education program and the title to the facilities (hereafter collectively known as the "title transfer") is a local decision between a COE and a school district. There is no timeframe given in the bill for the title transfers to take place, but the timeframe for making the adjustments resulting from the transfers begins on January 1, 2007, when the bill was enacted. In regards to title transfers occurring *prior to* January 1, 2007, legal counsel believes the OPSC has no authority to mandate that the adjustments to capacity and enrollment take place, but has the ability to give the option of doing the adjustments, as long as any required remittance is submitted to the State. For title transfers occurring *after* January 1, 2007, the OPSC is required to make adjustments to the districts' capacity and enrollment pursuant to the newly added bill language. In order to discourage continual shifting of eligibility between COEs and school districts, the OPSC will limit title transfer adjustments to not more than once in every five years.

Funds remitted to the State

Additionally, AB 2947 requires that if a transfer of title to special education program facilities constructed with State funds occurs within 10 years after initial occupancy of the facility, the grantee(s) shall remit to the State "a proportionate share of any financial hardship assistance" provided for the project as specified, if applicable. In the initial discussions of this item stakeholders suggested prorating the dollar amount remitted based on the age of the building when the title is actually transferred, so that an older building would generate a lower remittance than a newer one. However, in conferring with legal counsel, it was concluded that the most reasonable interpretation of the bill's intent was not to depreciate the value of any facilities being transferred, but rather to take back a share of the State funding already supplied.

It would seem that if the intent was to prorate the facilities based on age, it would follow that the period in which the repayment is required would be a reflection of the standard lifespan of buildings (25 to 40 years), not the ten-year period in the bill. During the Implementation Committee meeting most of the members believed that the remittance amount should factor in some sort of pro-ration of the facilities based on age. Staff does not concur.

If the grantee had SAB-approved Financial Hardship status through the OPSC at either the time of the title transfer or the time of the adjustment request, the requirement to make a remittance to the State will not apply. It was also recommended during Implementation Committee meetings that Staff consider an additional timeframe, the time of construction or acquisition of the facilities, for districts to be exempt from the remittance requirement. However, it was determined that this timeframe is irrelevant since the grantee did not actually need or use the facilities at the time of construction or acquisition. If the grantee did not

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STAFF COMMENTS (cont.)

have Financial Hardship status, the State will determine the amount of money owed based on prorating the State financial hardship funding initially apportioned to the project by the square footage of facilities transferred, less any site acquisition for the project (unless the title transfer includes land acquisition).

In order to ensure compliance with all relevant laws when transferring a project and/or facilities between a district and COE, the grantor and grantee will be required to send a letter, signed by a valid representative from each party, to the OPSC at the time of the facilities' transfer. The certifications on the letter are to ensure that the maintenance of the facility is continued and interactions between special education pupils and other pupils are maximized based on the location of the facilities. The letter will also initiate the process of the grantee remitting any funds due to the State and completing the baseline adjustments for the transferred facilities. The details that need to be included in the letter are stated on the *Enrollment Certification/Projection* (Form SAB 50-01).

At the time the OPSC receives a letter indicating a transfer of facilities, there will be an item presented notifying the SAB of the transfer, any appropriate eligibility adjustments, and the amount of remittance to the State, if any. Staff proposes a 60-day timeline to remit the required funds pursuant to current regulatory guidelines unless the grantee requests to repay the funds over a period of up to five years. A Committee member expressed concerns with providing a five year repayment plan based on the fact that the law does not specify a time period in which payment must be made. However, SAB legal counsel has opined that because the law is silent, Staff has the flexibility to determine a reasonable time period in which payment must be made. Therefore, in order to encourage participation in a special education facility transfer program which would be beneficial to both districts, Staff proposes a five year repayment plan if requested by the grantee.

Additional non-substantive SFP Regulation changes included in this item

- 1859.43 (b)(1): The language delineating the calculation for the SDC enrollment projection will be corrected to conform with the actual projection methodology.
- 1859.51 (p): Language will be added to expand adjustments for Critically Overcrowded School Preliminary Apportionments funded in 2004. This amendment should have been made when AB 491 (Chapter 710, Statutes of 2005) was implemented.
- *Enrollment Certification/Projection*: The instructions will clarify which SDC pupils are to be reported on that form, to correspond to which pupils are reported to the California Department of Education and housed by the district.

RECOMMENDATIONS

1. Adopt the proposed regulations as shown on the Attachment and begin the regulatory process.

2. Authorize the OPSC to file these regulations with the OAL.

BOARD ACTION

In considering this Item, the Board approved Staff's recommendations with a request that Staff report back to the Board six months after the approval of these regulations by the OAL on the level of program and facility transfer activity occurring after January 1, 2007, as a result of these amended regulations.

ATTACHMENT

Article 1. General Provisions and Definitions

Section 1859.2. Definitions.

…

"School District" shall have the meaning set forth in Education Code Sections 17070.15~~(h)~~(m) and 17073.25.

…

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

Reference: Sections 17009.5, 17017.6, 17017.7, 17021, 17047, 17050, 17051, 17070.15, 17070.51(a), 17070.71, 17070.77, 17071.10, 17071.25, 17071.30, 17071.33, 17071.35, 17071.40, 17071.75, 17071.76, 17072.10, 17072.12, 17072.18, 17072.33, 17073.25, 17074.10, 17074.30, 17074.32, 17075.10, 17075.15, 17077.40, 17077.42, 17077.45, 17078.52, 17078.56, 17280, and 56026, Education Code; Section 53311, Government Code; and Section 1771.5, Labor Code.

Article 5. Enrollment Projections

Section 1859.43. Projecting Special Day Class Enrollment.

The district enrollment, as reported on the Form SAB 50-01, shall be used to calculate the district's projected Special Day Class enrollment. The OPSC shall use the following methodology to determine the district's projected enrollment:

(a) The projected enrollment of each classification of Special Day Class students served by a school district shall be computed by multiplying the reported enrollment of Special Day Class students by the five-year projection of the same grade level of students as determined by Section 1859.42. The resulting value shall be divided by the current enrollment of the same students as provided on Form SAB 50-01.

(b) The projected enrollment of each classification of Special Day Class students served by a county office of education shall be computed as follows:

(1) Determine the percentage change in total Special Day Class enrollment from the ~~current~~ previous year to the ~~previous~~ current year; determine the percentage change in total Special Day Class enrollment in the second previous year to the ~~second~~ previous year; determine the percentage change in total Special Day Class enrollment in the ~~second~~ third previous year to the ~~third~~ second previous year. To determine the average annual ~~increase~~ change, add the three percentage changes and divide by three.

(2) The current Special Day Class enrollment provided by the county office of education as reported on Form SAB 50-01, shall be adjusted by the average annual percentage change in (1) for each year until the five-year projected enrollment has been determined.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.75 and 17071.76, Education Code.

Article 6. New Construction Eligibility Determination

Section 1859.50. Calculations to Determine New Construction Baseline Eligibility.

The district shall calculate its eligibility determination by completion of the Form SAB 50-03. Eligibility determination for New Construction Grant(s) may be requested on either a district-wide basis, a HSAA or Super HSAA basis.

If a district requests to have its eligibility determination made on a district-wide basis, eligibility for future grants in the district must be filed on the same basis for a period of five years from the date the district received an apportionment that was justified by eligibility determined on a district-wide basis.

If a district requests to re-file its eligibility determination from district-wide to HSAA or Super HSAA after the five year time period has elapsed, the existing school building capacity in the HSAA or Super HSAA will be determined based on the classrooms available in the HSAA or Super HSAA at the time of the initial district-wide request for eligibility

determination. Once the baseline eligibility has been determined for the HSAA or Super HSAA, it will be adjusted for classrooms constructed, funded or acquired in that HSAA or Super HSAA as provided by Section 1859.51.

If the district requests to have its eligibility determination made on a HSAA or Super HSAA, it must meet the criteria of Section 1859.41.

The calculated eligibility on the Form SAB 50-03, is the initial eligibility of the district, the HSAA or Super HSAA and shall be referenced as the baseline eligibility for future SFP funding. The baseline eligibility is the basis for filing Form SAB 50-04, for a new construction SFP grant.

If a special education program and the title to the related facilities is transferred between a school district and county office of education after the baseline eligibility was established by the Board, the following shall be required if the title transfer took place after January 1, 2007, or if requested by the school district and county office of education due to a title transfer that took place prior to January 1, 2007:
(a) The sending School District's existing school building capacity shall be adjusted pursuant to Section 1859.51(r).
(b) The receiving School District's existing school building capacity shall be adjusted pursuant to Section 1859.51(i).
(c) The sending School District's enrollment projection shall be adjusted pursuant to Education Code Section 17071.75(f).
(d) The receiving School District shall remit to the State a proportionate share of any financial hardship assistance provided for the project as described in Section 1859.106.
For purposes of this paragraph, the transfer of title to facilities shall also include:
(1) A lease, for the duration of more than five years whether in a single lease or cumulative total of several leases, of the receiving School District's facilities by the sending School District that is terminated.
(2) A lease, for the duration of more than five years whether in a single lease or cumulative total of several leases, of the sending School District's facilities by the receiving School District.
There shall not be any further adjustments made as a result of any subsequent transfers of that program for a period of five years from the date of the initial transfer or before all applicable funds have been remitted to the State as a result of the initial transfer. Both School Districts shall submit a Form SAB 50-01 for enrollment changes immediately upon transfer of title.

A district affected by a reorganization election on or after November 4, 1998 may file an application for a determination of new construction baseline eligibility after a successful reorganization election.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.10, 17071.25, 17071.30, 17071.33, 17071.40, 17071.75 and 17071.76, Education Code.

Section 1859.51. Adjustments to the New Construction Baseline Eligibility.

The baseline eligibility for new construction determined on the Form SAB 50-03, will be adjusted as follows:
(a) Reduced by the number of pupils provided grants in a new construction SFP project and by the number of pupils that received a Preliminary Apportionment pursuant to Section 1859.140 or a Preliminary Charter School Apportionment pursuant to Section 1859.160.
(b) Reduced by the number of pupils housed, based on the loading standards pursuant to Education Code Section 17071.25(a)(2)(A), in a new construction LPP project funded under the provisions of the LPP pursuant to Sections 1859.12 or 1859.13.
(c) Reduced by the number of pupils housed in additional classrooms constructed or purchased based on the loading standards, pursuant to Education Code Section 17071.25(a)(2)(A), in a modernization SFP project.
(d) Adjusted as a result of the audit findings made pursuant to Sections 1859.90 and 1859.105.
(e) Increased/decreased by changes in projected enrollment in subsequent enrollment reporting years for all districts except decreases as provided in (j) below.
(f) Adjusted as a result of errors or omissions by the district or by the OPSC.
(g) Adjusted as a result of amendments to these Regulations that affect the eligibility.

(h) Increased by the number of pupils eligible for grants pursuant to Section 1859.82 (a).
(i) Reduced by the number of pupils housed, based on loading standards pursuant to Education Code Section 17071.25(a)(2)(A), in any Classroom Provided after the baseline eligibility was determined by the Board with the exception of those pupils housed or to be housed in a classroom:
(1) That is a trailer and transportable/towed on its own wheels and axles.
(2) Of less than 700 interior square feet.
(3) Excluded pursuant to Education Code Section 17071.30.
(4) Where the contract for the lease, lease-purchase, purchase, or construction of the classroom was made prior to January 1, 2000.
(5) That is included in a SFP project where the district has funded a portion of the project beyond its required district contribution and the pupil capacity of the classroom does not exceed 150 percent of the number of pupils receiving a new construction grant (rounded up) for the SFP project.
(6) That was acquired with joint-use funds specifically available for that purpose.
(j) For Small School Districts, decreased:
(1) By any reduction in projected enrollment that follows a three-year period after the district's eligibility was approved by the Board.
(2) By any increase in the number of pupils included in the latest operational grant report made by the CDE pursuant to Education Code Section 42268 beginning three years after the district's most current eligibility was approved by the Board. The reduction in eligibility shall be determined by the number of pupils included in the latest operational grant report that exceed the number of pupils included in the operational grant report in effect when the district's most current eligibility was approved by the Board or adjusted by a subsequent operational grant report after that date.
(k) Adjusted for any change in classroom inventory as a result of a reorganization election.
(l) For classroom loading standards adopted by the Board for non-severely disabled individuals with exceptional needs and severely disabled individuals with exceptional needs.
(m) As directed by the Board due to a finding of a Material Inaccuracy pursuant to Regulation Section 1859.104.1.
(n) Increased by the number of pupils that received a Preliminary Apportionment that was rescinded pursuant to Section 1859.148 or a Preliminary Charter School Apportionment that was rescinded pursuant to Section 1859.166.
(o) Adjusted for operational grant changes as determined/provided by the California Department of Education.
(p) For a HSAA district with Preliminary Apportionments within the 2002 <u>or 2004</u> Critically Overcrowded School Facilities Account as follows:
(1) Decreased by the number of pupils that received a Preliminary Apportionment, distributed proportionately among HSAAs in which the pupils used to justify the conversion of the Preliminary Apportionment were enrolled but did not reside.
(2) In the subsequent enrollment reporting year after verification of Occupancy of a project, increased by the number of pupils equal to the reduction due to Section 1859.51(p)(1), for the project which was occupied.
(3) Increased by the number of pupils equal to the reduction due to Section 1859.51(p)(1), for a Preliminary Apportionment rescinded pursuant to the provisions of Section 1859.148.
(q) Adjusted by the difference between the Alternative Enrollment Projection for the current enrollment reporting year and the projected enrollment determined pursuant to Section 1859.42 for the current enrollment reporting year, or by the eligibility remaining from this calculation that can no longer be utilized if the funds made available pursuant to Education Code Section 17071.75(a)(1)(A) have been exhausted.
<u>(r) Adjusted pursuant to Education Code Section 17071.75(b)(2) by the number of pupils housed, based on the loading standards pursuant to Education Code Section 17071.25(a)(2)(A), in any classroom(s) where title was relinquished to the School District receiving the transferred classroom(s).</u>

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17052, 17070.51, 17071.25, 17071.75, 17071.76, 17072.20 and 17077.40, Education Code.

Section 1859.81. Financial Hardship.

Except for Joint-Use Projects, a district is eligible for financial hardship to fund all or a portion of its matching share requirement after demonstrating both of the following:

(a) The district is financially unable to provide all necessary matching funds for an eligible project. To determine this, an analysis shall be made of the district's financial records by the OPSC including data and records maintained by the CDE and the County Office of Education. The analysis shall consist of a review of the district's latest Independent Audit regarding funds available from all capital facility accounts, including, but not limited to, developer fees, funds generated from capital facility certificates of participation, federal grants, redevelopment funds, sale proceeds from surplus property, the appraised value of facilities approved for replacement pursuant to Section 1859.82, bond funds either encumbered, unencumbered or authorized but unsold, and savings from other SFP projects. All funds thus identified that have not been expended or encumbered by a contractual agreement for a specific capital outlay purpose prior to the initial request for financial hardship status shall be deemed available as a matching contribution.

After the initial request for financial hardship status is granted, no further encumbrances will be approved by the OPSC and all prospective revenue made available to the district's capital facility accounts shall be deemed available as matching contribution on the subsequent financial hardship review, with the exception of:

(1) Approved interim housing expenditures.
(2) Funding to pay for previously recognized multi-year encumbrances approved at the initial financial hardship approval.
(3) Funding that is transferred into a Special Reserve Fund and is used for the express purpose of the Federal Renovation Program when the amount expended out of that fund does not exceed the maximum Federal Renovation Grant amount.
(4) Funding that is transferred into a Special Reserve Fund and is used for the express purpose of the School Facilities Needs Assessment Grant Program or Emergency Repair Program when the amount expended out of that fund does not exceed the maximum grant amount apportioned.
(5) Funding that is used for the express purpose of reimbursing the State a proportionate share of financial hardship received when there has been a transfer of a special education program and title to the facility. In addition, the funding was used within five years of the title transfer.
~~(5)~~(6) All other capital facility funding for a period of three years when no subsequent financial hardship request is made during this period. The three-year period begins with the date of the most recent financial hardship new construction or modernization adjusted grant funding apportionment.

The financial hardship analysis is subject to approval by the Board.

(b) From the funds deemed available as a matching contribution, the district may retain $19,776 per classroom in each enrollment reporting period for the cost to provide interim housing for the currently unhoused pupils of the district. The amount shown shall be adjusted annually in the manner prescribed in Section 1859.71. The number of classrooms needed for interim housing for the currently unhoused pupils shall be the sum of the positive numbers determined in (b)(7) as follows:

(1) Determine the current enrollment of the district by grade level as shown on the latest Form SAB 50-01.
(2) Determine the New Construction Grants apportioned by grade level for all SFP projects and LPP funded under the provisions of Sections 1859.12 or 1859.13 where the district has submitted Form SAB 50-06 indicating that the project is 100 percent complete.
(3) Subtract (b)(2) from (b)(1).
(4) Determine the number of classrooms by grade level reported in Part 1, Line 8 on Form SAB 50-02.
(5) Multiply the classrooms determined in (b)(4) by 25 for K-6, 27 for 7-12, 13 for Non-Severe and 9 for Severe.
(6) Subtract the product determined in (b)(5) from the difference determined in (b)(3) by grade level.
(7) Divide the difference by grade level determined in (b)(6) by 25 for K-6, 27 for 7-12, 13 for Non-Severe and 9 for Severe and round up to the nearest whole number.

From the funds deemed available as a matching contribution, the district may also retain $19,776 per portable toilet unit in each reporting period for the cost to provide necessary interim toilet facilities for the currently unhoused pupils of the district. The amount shown shall be adjusted annually in the manner prescribed in Section 1859.71. The number of toilet facilities needed for interim housing shall be the sum of the positive numbers determined in (b)(7) divided by eight rounded up to the nearest whole number.

If the district's available funds, as determined by the OPSC analysis less costs for interim housing, is less than its matching share, the district will be deemed to have met the requirements of this Subsection.

(c) The district has made all reasonable efforts to fund its matching share of the project by demonstrating it is levying the developer fee justified under law or an alternative revenue source equal to or greater than the developer fee otherwise justified under law at the time of request for hardship and the district meets at least one of the following:

(1) The current outstanding bonded indebtedness of the district issued for the purpose of constructing school facilities in accordance with Education Code Section 17072.35 or 17074.25 as appropriate, at the time of request for financial hardship status, is at least 60 percent of the district's total bonding capacity. Outstanding bonded indebtedness includes that part of general obligation bonds, Mello-Roos Bonds, School Facility Improvement District Bonds and certificates of participation which the district is paying a debt service that was issued for capital outlay school facility purposes.

(2) The district had a successful registered voter bond election for at least the maximum amount allowed under Proposition 39 within the previous two years from the date of request for financial hardship status. The proceeds from the bond election that represent the maximum amount allowed under the provisions of Proposition 39 must be used to fund the district's matching share requirement for SFP project(s).

(3) It is a County Superintendent of Schools.

(4) The district's total bonding capacity at the time of the request for financial hardship status is $5 million or less.

~~(5) Funding that is used for the xpress purpose of reimbursing the State a proportionate share of financial hardship received when there has been a transfer of a special education program and title to the facility. In addition, the funding was used within five years of the title transfer.~~

(5)~~(6)~~ Other evidence of reasonable effort as approved by the SAB.

If the district's request for financial hardship status is denied by the Board, the district may be deemed eligible for rental payments of $2,000 per year per classroom under the Emergency School Classroom Law of 1979 for a two year period when relocatable classroom buildings are available and the district provides financial documentation that it is unable to afford the full rental amount and any other information satisfactory to the Board that the rental reduction is necessary. The number of classrooms eligible for the $2,000 rental payments shall be the sum of the numbers determined in (c)(5)(B) as follows:

(A) Determine the number of pupils by grade level that the district requested a New Construction Grant on the Form SAB 50-04 that were denied financial hardship status.

(B) Divide the number by grade level determined in (c)(5)(A) by 25 for K-6, 27 for 7-12, 13 for Non-Severe and 9 for Severe and round up to the nearest whole number.

If the district meets the financial hardship requirements in this Section, the amount of financial hardship is equal to the district's matching share less funds deemed available in (a).

Once a district has been notified by the OPSC that it meets the requirements of financial hardship in this Section, the district may file Form SAB 50-04 under the provisions of financial hardship anytime within a period of 180 calendar days from the date of the OPSC notification.

If the district does not submit Form SAB 50-04 under the provisions of financial hardship within 180 calendar days of the OPSC notification of approval of financial hardship status, the district must re-qualify for financial hardship status under the provisions of this Section by submittal of a new request for financial hardship status.

If the district submits Form SAB 50-04 within 180 calendar days of the OPSC notification of approval of financial hardship and the project(s) has been included on an unfunded list for more than 180 calendar days, a review of the district's funds pursuant to (a) will be made to determine if additional district funds are available to fund the district's matching share of the project(s).

Financial hardship approval status by the OPSC for a separate design and/or site apportionment does not apply to any subsequent funding for the project(s).

Note: Authority cited: Sections 17070.35, 17075.15 and 17592.73, Education Code.

Reference: Sections 17075.10, 17071.75 and 17075.15, Education Code.

Article 11. Miscellaneous School Facility Program Requirements

Section 1859.106. Program Accountability Expenditure Audit.

The projects will be audited to assure that the expenditures incurred by the district were made in accordance with the provisions of Education Code Section 17072.35 for new construction projects, Section 1859.120 for Joint-Use Projects, Section 1859.140 for Critically Overcrowded School projects, Section 1859.160 for Charter School projects, and Education Code Section 17074.25 and Section 1859.79.2 for modernization projects. The audit will also assure that the district complied with all site acquisition guidelines as provided in Education Code Sections 17072.13 and 17072.14 and Sections 1859.74, 1859.74.1, 1859.74.2, 1859.74.3, 1859.74.4, 1859.75 and 1859.75.1.

An adjustment in the SFP grant will be made for the following:

(a) The difference in the value of the site, relocation costs, DTSC fees, and hazardous waste/materials removal costs that were used to determine the New Construction Additional Grant and the actual amount paid by the district for the site, relocation costs, DTSC fees, and hazardous waste/materials removal costs. For applications received on or after January 1, 2004, the adjustment may be made regardless of whether the hazardous waste/materials removal costs were requested on the application for funding.

(b) For 50 percent of any insurance proceeds collectable by the district for displaced facilities and 50 percent of the net proceeds available from the disposition of displaced facilities pursuant to Section 1859.82(a) or (b).

When the OPSC receives the final expenditure report from the district on Form SAB 50-06, an audit of the expenditures by the OPSC shall commence within two years of the report. If the district is not notified by the OPSC within the two-year period that an audit will be made, there will be no audit of the project by the OPSC and the expenditures reported by the district shall be deemed appropriate. If the district has been notified that an audit of the expenditures will be made by the OPSC, the OPSC shall complete the audit within six months of the notification, unless additional information requested from the district has not been received.

Districts shall be required to maintain all appropriate records that support all district certifications and expenditures for all costs associated with SFP, Charter School, and Joint-Use projects for a period of not less than four years from the date the notice of completion is filed for the project in order to allow other agencies, including, without limitation, the Bureau of State Audits and the State Controller to perform their audit responsibilities.

The district is responsible to substantiate expenditures from the Joint-Use Partner(s) financial contribution pursuant to Section 1859.127 and from other local sources.

Should the OPSC conduct an audit of the district certifications or the expenditures for the project and make a finding that some or all of the expenditures were not made in accordance with the provisions of Education Code Section 17072.35 for new construction projects, Section 1859.120 for Joint-Use Projects, Section 1859.140 for Critically Overcrowded School projects, Section 1859.160 for Charter School projects, Education Code Section 17074.25 and Section 1859.79.2 for modernization projects, and Education Code Sections 17072.13 and 17072.14 for projects with additional costs imposed by the DTSC, the OPSC shall recommend to the Board that the apportionment be adjusted based on the audit findings.

Should the CDE make a finding that a project did not meet the standards that were adopted by the CDE pursuant to Education Code Section 17251 (b) and (c) when the district had self-certified that the project met those standards pursuant to Education Code Section 17070.50 (b), the Board may request that the CDE make a recommendation that

the apportionment for the project be adjusted based on the CDE finding. Any adjustment in the apportionment shall be based on the percentage of space in the project that the CDE determined did not meet those standards.

If title to special education program facilities is transferred between a school district and a county office of education pursuant to Education Code Sections 17071.75(b)(2) and (f), the receiving School District shall remit payment to the State within 60 days or up to five years, as requested by the School District. If a repayment schedule is requested, it shall be in equal annual installments and shall include interest at the same rate as that earned on the State's Pooled Money Investment Account on the date a repayment schedule is approved by the Board. The repayment amount shall be determined by prorating the Financial Hardship assistance received on the initial Apportionment for the transferred facilities, including site acquisition costs apportioned for any land transferred, by the percentage of building area being transferred divided by the total amount of building area approved on the initial Application containing the transfer of facilities, if all of the following conditions are met:

(a) The transferred facilities were constructed with State funds under Chapter 12.5.
(b) Transfer of the facilities took place within ten years of initial occupancy.
(c) The School District that initially acquired or constructed the transferred facilities had approved Financial Hardship status at the time of Apportionment of the project.
(d) The School District receiving the facility did not have approved Financial Hardship status at either the time of the title transfer or the time that the adjustment request is submitted to the OPSC.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35, 17070.50, 17071.75, 17072.13, 17072.14, 17072.18, 17072.35, 17074.25, 17076.10, 17077.40, 17078.52 and 17251, Education Code.

ENROLLMENT CERTIFICATION/PROJECTION

SCHOOL FACILITY PROGRAM

SAB 50-01 (REV 04/07~~03/05~~)

GENERAL INFORMATION

To determine a district's initial eligibility for new construction funding under the School Facility Program, the district must provide enrollment information for the current and previous three years on this form. After the initial submittal, this form need only be resubmitted when the district requests additional new construction funding in a new enrollment year, ~~or~~ as a result of a reorganization election that affects either the district's enrollment or existing school building capacity, or as a result of a special education program transfer.

The following documentation must be submitted with this form (as appropriate):

- Specific enrollment data for district's with current enrollment that is less than 300 if the district is requesting an enrollment projection based on five-year average enrollment data (refer to Part A).
- A copy of the study supporting student yield factors if the district is requesting an augmentation of it's enrollment projection due to pupils residing in new dwelling units and it is not using the State yield factors (refer to Part F).
- A copy of the governing board approved attendance map and enrollment distribution worksheet for every HSAA, if the district is currently, or anticipates for the future, reporting residency data (refer to Part A). By signing this form, the district certifies that the pupil enrollment and residency data used to support the submitted map and worksheet is available at the district for Office of Public School Construction (OPSC) verification.

Upon transfer of any SELPA facilities, the school districts are required to submit a letter to the OPSC, signed by each school district involved, including the following;

- Grant deed or other legal documentation indicating the facilities have been transferred,
- Name of school,
- Building square footage and number of classrooms being transferred,
- The initial occupancy date of the facility,
- Date of transfer,
- Acknowledgement that the grantee may owe the State funds,
- Financial hardship status of each school district at time of initial application and at time of transfer,
- OPSC application number(s) of Application for Funding (Form SAB 50-04),
- Acknowledgment that the certifications made, pursuant to Education Code Sections 17070.77, 17070.755, 17070.75 and 17070.80, by the grantor on the Application for Funding (Form SAB 50-04) will be assumed by the grantee, and
- Request for a payment plan, if needed.

A high school district, unified school district, or county superintendent of schools may file on a high school attendance area (HSAA) basis or Super HSAAs as provided under Education Code Section 17071.76 and Section 1859.41. In that case, the enrollment used on this form is the current and three previous years enrollment in the HSAA or Super HSAA.

To determine the new construction eligibility for a district filing on a HSAA basis, and seeking COS project justification pursuant to SFP Regulation Section 1859.147(e)(2), one Form SAB 50-01 based on enrollment as reported to CDE and one based on the residence of the pupils must be filed for each HSAA which includes a Preliminary Apportionment for a 2002 COS project.

This form is not used for modernization funding applications.

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SPECIFIC INSTRUCTIONS

Part A. Enrollment/Residency Data

Check the appropriate box to indicate whether the district is reporting enrollment data or residency data.

Enrollment Data (To be completed by school districts or the county superintendent of schools.)

The information needed to complete this form is based on the latest California Basic Education Data Systems (CBEDS) that is available approximately October 15th of each year. Applications filed on or after November 1st must include the current school year enrollment. Report the current year and the three prior years K–12 enrollment. High school districts report the unduplicated enrollment data for grades served by the district and all feeder elementary school grades for the current year and the previous three years.

As an option, school districts with less than 300 current enrollment may report the previous five year average for any grade level for any year when the enrollment for that grade level has decreased by more than 50 percent from the previous year. If this option is used, the district must identify each grade level where this option is used on Form SAB 50-01 and attach the appropriate enrollment documentation to support this request.

County superintendents report the enrollment for community school students as reported in April prior to the latest CBEDS report.

The enrollment data must include all off-track and on-track students attending multi-track year round schools, students living outside the district's boundaries but attending schools in the district, students receiving Classroom-Based Instruction in Charter Schools located within the district boundaries and are enrolled in the same grade levels or type served by the district regardless if the district chartered the school, students attending magnet schools, community school students, and students attending independent study.

Do not include students living in the district's boundaries but attending other districts, students attending regional occupational programs, students attending preschool programs, other students not generally considered K–12 students including adult education students, students receiving Classroom-Based Instruction in Charter Schools located within the district boundaries but are enrolled in grade levels or type not served by the district, students living inside district boundaries but are receiving Classroom-Based Instruction in Charter Schools located outside the district boundaries, students receiving Nonclassroom-Based Instruction, juvenile court/court school students, special day class pupils, or continuation high school pupils.

Residency Data (To be completed by a COS HSAA district, filing pursuant to Section 1859.147(e)(2).)

The information used to complete this form is based on the latest enrollment as reported on the CBEDS that is available October of each year, and pupil residency within the HSAA boundaries. Report the current year and the three prior years' K–12 pupils that are both enrolled and reside within the HSAA boundaries. For HSAA district filing pursuant to Section 1859.147(e)(2)(A) only the current years' K–12 pupils must be reported.

Do not include students living outside the district's boundaries but attending school in the district, students living in the district's boundaries but attending other districts, students attending regional occupational programs, students attending preschool programs, other students not generally considered K–12 students including adult education, students receiving Classroom-Based Instruction in Charter Schools located within the district boundaries but are enrolled in grade levels or type not served by the district, students living inside district boundaries but are receiving Classroom-Based Instruction in Charter Schools located outside the district boundaries, students receiving Nonclassroom-Based Instruction, juvenile court/court school students, special day class pupils or continuation high school pupils.

Part B. Pupils Attending Schools Chartered by Another District
Of the data reported in Part A of this form, indicate the aggregate pupil enrollment attending schools chartered by another district which are located within your district boundaries for the current year and the three prior years. If the district is reporting pupils attending schools chartered by another district for the current year, then the district must submit a separate letter with the following information:

- The total Charter School enrollment listed by each of the K–12 grade levels reported for the current year.
- A list of the other school district(s) that chartered school(s) within your boundaries. Include the Charter School name(s) and total school enrollment.

For the previous years, report the total enrollment for pupils attending schools chartered by another district, if known. If the information is not available, enter N/A. In this case, the OPSC will adjust the previous years' enrollment data based on a prorated basis of the rate of growth or decline of the previous years' enrollment.

Enter 0 if there are no pupils attending schools chartered by another district within your district boundaries for the current or previous years.

Part C. Continuation High School (To be completed by school districts only.)
Report the continuation high school enrollment for the current year and the three previous years. For purposes of projecting the enrollment, these pupils will be added to the enrollment data in Part A.

Part D. Special Day Class Pupils (To be completed by school districts or the county superintendent of schools.)
Report the pupils three to twenty-two years old enrolled or residing, as appropriate, within the district boundary, attending the special day classes as shown and reported within the California Special Education Management Information System to the California Department of Education in December prior to the latest CBEDS report. Use pupil descriptions as provided in Section 1859.2 for Non-Severely Disabled Individual with Exceptional Needs and Severely Disabled Individual with Exceptional Needs.

Part E. Special Day Class Enrollment (To be completed by county superintendent of schools only.)
Report the total of special day class pupils in all categories for the three previous years, adjusted by the total pupils lost or gained due to a title transfer of a Special Education Program for each year.

Part F. New Dwelling Units (To be completed by school districts only.)
The district may augment the enrollment projection based on the number of pupils that are anticipated as a result of proposed dwelling units included in approved and valid tentative or final subdivision maps.

The district must provide all of the following:

- The approval dates of the maps by the local planning commission or approval authority; and,
- The number of dwelling units to be built within each subdivision excluding all dwelling units that have either 1) been occupied; or, 2) had construction permits pulled that are twelve months or older from the date the permit was pulled. (Note: A district must select only one option—the Date of Occupancy or permits pulled, plus twelve months—as the point in time to stop reporting dwelling units for all tracts being submitted. A district may select the alternate option the following submittal year if desired.); and,
- One of the following:
  1. An approved and valid tentative or final subdivision map with the local planning commission or approval authority stamp located on the map, or
  2. An approved and valid tentative or final subdivision map with supporting documentation, or
  3. A spreadsheet or the OPSC dwelling unit worksheet listing all of the subdivisions reported on the Form SAB 50-01 with supporting documentation. If the district wishes to utilize this option, please note that when the district representative signs the Form SAB 50-01, he/she is certifying that the tract maps are on file at the district office and available for OPSC review if requested.

Supporting documentation is defined as one of the following:

- Local planning commission or approval authority meeting minutes detailing the approval of the map. If the approval was given an extension, please provide the most current meeting minutes indicating the approval of the extension request. Dwelling units contained in expired maps may not be reported on the Form SAB 50-01, or
- A letter from the local planning commission or approval authority indicating that the tract map is approved and valid as of the signature date of the Form SAB 50-01, or
- Any other reasonable documentation from the local planning commission or approval authority that indicates the tract map is approved and currently valid.

Report the determined number of dwelling units in Part F.

Part G. Yield Factor (To be completed by school districts only.)
Report the district's student yield factors as defined in Section 1859.2, if different than the statewide average student yield factor. The statewide average student yield factors are as follows:

- Elementary School District ..... 0.5 students per dwelling unit
- High School District ..... 0.2 students per dwelling unit
- Unified School District ..... 0.7 students per dwelling unit

Should the district wish to use its own student yield factors, a copy of the district's study that justifies the student yield factors must be submitted with this form.

Part H. Five Year Projected Enrollment/Residency (Used for the School Facility Program. To be completed by the OPSC.)

Part I. One Year Projected Enrollment (Used for the State Relocatable Program. To be completed by the OPSC. Do not manually complete Parts H or I.)

Complete this form manually, sign, date, and submit to the OPSC for computations. A completed copy of this form with the enrollment projections will be returned to the district.

The methodology for calculating the district's projected enrollment is outlined in Sections 1859.42 and 1859.43.

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STATE OF CALIFORNIA

ENROLLMENT CERTIFICATION/PROJECTION

SCHOOL FACILITY PROGRAM

SAB 50-01 (REV 04/07~~03/05~~)

STATE ALLOCATION BOARD
OFFICE OF PUBLIC SCHOOL CONSTRUCTION

SCHOOL DISTRICT	FIVE DIGIT DISTRICT CODE NUMBER (SEE CALIFORNIA PUBLIC SCHOOL DIRECTORY)
COUNTY	HIGH SCHOOL ATTENDANCE AREA (HSAA) OR SUPER HSAA (IF APPLICABLE)

Part A. ☐ **Enrollment Data** ☐ **Residency Data**—COS HSAA Districts Only

Grade	3rd Previous	2nd Previous	Previous	Current
	/	/	/	/
K				
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
Total				

Part B. Pupils Attending Schools Chartered by Another District

3rd Previous	2nd Previous	Previous	Current

Part C. Continuation High School—(Districts Only)

Grade	3rd Previous	2nd Previous	Previous	Current
	/	/	/	/
9				
10				
11				
12				

Part D. Special Day Class Pupils—(Districts or County Superintendent of Schools)

	Elementary		Secondary			Elementary		Secondary	
	NON-SEVERE	SEVERE	NON-SEVERE	SEVERE		NON-SEVERE	SEVERE	NON-SEVERE	SEVERE
MR					OI				
HH					OHI				
DEAF					SLD				
HI					DB				
SLI					MH				
VI					AUT				
SED					TBI				
					TOTAL				

Part E. Special Day Class Enrollment—(County Superintendent of Schools Only)

3rd Previous	2nd Previous	Previous

Part F. Number of New Dwelling Units ____

Part G. District Student Yield Factor ____

Part H. Five Year Projected Enrollment/Residency—School Facility Program Projections (Except Special Day Class Pupils Only)

K–6	7–8	9–12	Total

Projections—Special Day Class Pupils Only

	Elementary		Secondary			Elementary		Secondary	
	NON-SEVERE	SEVERE	NON-SEVERE	SEVERE		NON-SEVERE	SEVERE	NON-SEVERE	SEVERE
MR					OI				
HH					OHI				
DEAF					SLD				
HI					DB				
SLI					MH				
VI					AUT				
SED					TBI				
					TOTAL				

Part I. One Year Projected Enrollment—State Relocatable Program Projections (Except Special Day Class Pupils Only)

K–6	7–8	9–12	Total

Projections—Special Day Class Pupils Only

	Elementary		Secondary			Elementary		Secondary	
	NON-SEVERE	SEVERE	NON-SEVERE	SEVERE		NON-SEVERE	SEVERE	NON-SEVERE	SEVERE
MR					OI				
HH					OHI				
DEAF					SLD				
HI					DB				
SLI					MH				
VI					AUT				
SED					TBI				
					TOTAL				

I certify, as the District Representative, that the information reported on this form is true and correct and that:

- I am designated as an authorized district representative by the governing board of the district.
- If the district is requesting an augmentation in the enrollment projection pursuant to Section 1859.42 (b), the local planning commission or approval authority has approved the tentative subdivision map used for augmentation of the enrollment and the district has identified dwelling units in that map to be contracted. All subdivision maps used for augmentation of enrollment are available at the district for review by the OPSC.
- This form is an exact duplicate (verbatim) of the form provided by Office of Public School Construction. In the event a conflict should exist, then the language in the OPSC form will prevail.

SIGNATURE OF DISTRICT REPRESENTATIVE	DATE

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