

REPORT OF THE EXECUTIVE OFFICER  
State Allocation Board Meeting, June 25, 2008

PROJECT INFORMATION WORKSHEET  
MATERIAL INACCURACY REGULATIONS

PURPOSE OF REPORT

To request:

1. Adoption of proposed regulatory amendments that give school districts protections in reporting on the *Project Information Worksheet* (Worksheet).
2. Authorization to file the proposed regulations with the Office of Administrative Law (OAL).

DESCRIPTION

At the January 2008 State Allocation Board (SAB) meeting, the Office of Public School Construction (OPSC) Staff recommended, and the SAB requested, that Staff review and present proposed amendments to School Facility Program (SFP) Regulation Section 1859.104.1 (Material Inaccuracy Penalties) at a future SAB meeting to clarify the purpose of the Worksheet as it relates to material inaccuracies.

AUTHORITY

To make a finding of Material Inaccuracy, Education Code Section 17070.51(a) states "If any certified eligibility or funding application related information is found to have been falsely certified by school districts, architects or design professionals, hereinafter referred to as a material inaccuracy, the Office of Public School Construction shall notify the board."

SFP Regulation Section 1859.2 defines that Material Inaccuracy "means any falsely certified eligibility or funding application related information submitted by the school districts, architects or other design professionals that allowed the school district an advantage in the funding process."

STAFF COMMENTS

The proposed regulation (see Attachment) was discussed at several Implementation Committee meetings. Based on committee discussions and in consultation with SAB Legal Counsel, the proposed regulation will provide protection against Material Inaccuracy findings when the information provided at the time of filing is the best available. The proposed regulation will ensure that reliable data is collected on the Worksheet. Information on the Worksheet will not be used as part of a project audit but will be analyzed to determine the annual adjustment to the SFP new construction grants.

Additionally, the proposed regulation includes a non-substantive change to SFP Regulation Section 1859.104.1(b)(2) to correct the misspelling of the word "from".

RECOMMENDATIONS

1. Adopt the proposed regulations as shown on the Attachment and begin the regulatory process.
3. Authorize the OPSC to file these regulations with the OAL.

This Item was approved by the State Allocation Board on June 25, 2008.

ATTACHMENT

SCHOOL FACILITY PROGRAM  
State Allocation Board Meeting, June 25, 2008

Amend Regulation Section 1859.104.1

Section 1859.104.1. Material Inaccuracy Penalties.

When the Board makes a finding that a Material Inaccuracy occurred for a SFP Project, the district shall be subject to the following penalties:

- (a) If the Material Inaccuracy finding occurred prior to the apportionment, the district shall be:
  - (1) Prohibited from self-certifying the project information for a period of up to five years from the date the Board made the finding of Material Inaccuracy for the project. A prohibition from self-certification of project information may be less than five years as determined on a case-by-case basis by the Board.
  - (2) Required to file all projects pursuant to Section 1859.104.2 for the time period required in subsection (a)(1).
  - (3) Subject to the fee prescribed by Section 1859.104.3.
- (b) If the Material Inaccuracy finding occurred after the apportionment but no funds have been released for the project:
  - (1) The Board shall reduce the project apportionment by the additional funding received beyond the amount the district was entitled to for the project.
  - (2) The school district shall be prohibited from self-certifying project information for a period of up to five years ~~from~~from the date the Board made the finding of Material Inaccuracy for the project. A prohibition from self-certification of project information may be less than five years as determined on a case-by-case basis by the Board.
  - (3) The school district shall be required to file all projects pursuant to Section 1859.104.2 for the time period required in subsection (b)(2).
  - (4) The school district shall be subject to the fee prescribed by Section 1859.104.3.
- (c) If the Material Inaccuracy finding occurred after the apportionment and funds were released for the project, the district:
  - (1) Must repay the additional funding received beyond the amount the district was entitled to for the project with interest within five years from the date the Board made the finding of Material Inaccuracy. Interest shall be assessed as prescribed in Education Code Section 17070.51(b)(1).
  - (2) Shall be prohibited from self-certifying project information for a period of up to five years from the date the Board made the finding of Material Inaccuracy for the project. A prohibition from self-certification of project information may be less than five years as determined on a case-by-case basis by the Board.
  - (3) Shall be required to file all projects pursuant to Section 1859.104.2 for the time period required in subsection (c)(2).
  - (4) Shall be subject to the fee prescribed by Section 1859.104.3.
- (d) The Board may direct that adjustments to the school district's New Construction or Modernization baseline eligibility be made pursuant to Sections 1859.51 and 1859.61 based on the determination of Material Inaccuracy.

A school district filing a *Project Information Worksheet* with the best available information at the time of filing will not be subject to a Material Inaccuracy for that information.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.51 and 17077.40, Education Code.